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Joe Gauthier, Clean Up on Electric Dredge in 1895.

Montana Historical Society Photograph

MONTANA INDEX OF ENVIRONMENTAL PERMITS

Compiled by
Steven J. Perlmutter

Revised by
Maureen Theisen

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Keep in Mind . . . .

This document summarizes portions of Montana law that deal with the use and development of the state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

TABLE OF CONTENTS

INTRODUCTION xiii

LAND DESIGNATIONS 1
- AIRPORT AREAS 1
- CONSERVATION DISTRICTS 2
- FLOODPLAINS AND FLOODWAYS 3
- HERITAGE SITES 5
  - ANTIQUITIES PERMITS 5
- LAKESHORES 6
- NATURAL AREAS 8
- OPEN SPACE - CONSERVATION EASEMENTS 9
- STATE LANDS 10
- STREAM BEDS - STREAM BANKS - WETLANDS 11

AGRICULTURE 14
- ANIMAL CONFINEMENT FACILITIES 14
- CROPLAND LEASES ON STATE LANDS 14
- FERTILIZER REGISTRATION 15
- GRAZING 16
- PESTICIDES 18

BUILDING AND CONSTRUCTION 22
- BUILDING CODES AND RESTRICTIONS 22
- PLANNING 23
- ZONING 23

COMMERCIAL - INDUSTRIAL - ENERGY 24
- AIR QUALITY PERMITS: STATE 24
- AIR QUALITY PERMITS: FEDERAL 27
- GEOTHERMAL LEASES 28
- GEOTHERMAL LEASES ON STATE LANDS 28
- HYDROELECTRIC POWER DEVELOPMENT 29
- HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS 30
- HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS 31
- INDOOR EMISSIONS - OCCUPATIONAL NOISE 32
  - ASBESTOS CONTROL 32
  - INDOOR EMISSIONS - OCCUPATIONAL NOISE 34
  - RADIATION CONTROL 34

MAJOR FACILITY SITING 35
PIPELINES 38
WATER POLLUTION DISCHARGE PERMITS 38

FOOD PROCESSING AND SERVICE 39
DAIRIES 39
SLAUGHTERHOUSES - MEATPACKING PLANTS 39

FORESTRY 41
BURNING PERMITS 41
CABIN SITES 42
HAZARD REDUCTION 42
PORTABLE SAWMILLS 43
REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER 44
STREAMSIDE MANAGEMENT ZONES 44
TIMBER HARVESTS 45
TIMBER SALES 45

HIGHWAYS - TRANSPORTATION 47
FERRIES 47
HIGHWAY ADVERTISING 47
HIGHWAY APPROACH PERMITS 48
HIGHWAY ENCROACHMENTS - EASEMENTS 49
ROADSIDE JUNKYARDS 50

HUNTING - FISHING - TRAPPING - WILDLIFE MANAGEMENT 51
COMMERCIAL ACTIVITIES 51
BREEDING GAME BIRDS AND ANIMALS 51
FUR DEALERS 52
OUTFITTERS AND GUIDES 53
ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS 56
SEINING 57
SHOOTING PRESERVES 58
FISHING, HUNTING AND TRAPPING LICENSES 59
FISHING, HUNTING AND TRAPPING REGULATIONS 60
WILDLIFE PROTECTION 62
GAME PRESERVES 62
IMPORTATION OF FISH, FISH EGGS AND WILDLIFE 62
NONGAME AND ENDANGERED SPECIES 63
USE OF POISON BAIT ON DEPARTMENT LANDS 63
WILD BIRD PERMITS 64

MINING 65
COAL AND URANIUM MINING: MINE-SITE LOCATION PERMITS 65
COAL AND URANIUM MINING: OPERATIONS 66
URANIUM MINING - SOLUTION EXTRACTION 69
COAL AND URANIUM MINING: PROSPECTING PERMITS 71
HARDROCK MINING: EXPLORATION 72
HARDROCK MINING: MILLING / REPROCESSING 74
HARDROCK MINING: OPERATIONS 75
LANDOWNER NOTIFICATION 80
MINING RIGHT-OF-WAY 80
OPENCUT MINING 81
OPERATIONS ON STATE LANDS: COAL MINING 83
OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS 85
OPERATIONS ON STATE LANDS: PROSPECTING 86
OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NON-METALLIFEROUS MINERALS 87
RECORDING OF MINING CLAIMS 88

OIL AND GAS 90
GEOPHYSICAL EXPLORATION 90
OIL AND GAS 91
OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION 93
OPERATIONS ON STATE LANDS: OIL AND GAS 93
OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS 95
UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS . . . 95

PARKS AND RECREATION 97
BOATS 97
CAMPGROUNDS - TRAILER COURTS - WORK CAMPS 98
OFF-HIGHWAY VEHICLES 100
SNOWMOBILES 100
STATE PARKS 102

SOLID WASTE - HAZARDOUS WASTE 103
HAZARDOUS WASTE DISPOSAL 103
MOTOR VEHICLE WRECKING FACILITIES 105
RADIOACTIVE WASTE DISPOSAL 107
ROADSIDE JUNKYARDS 107
SOLID WASTE DISPOSAL (NON-HAZARDOUS) 108
UNDERGROUND STORAGE TANKS 111
TANK OWNERS AND OPERATORS 112
TANK INSTALLERS AND INSPECTORS 115

SUBDIVISIONS 117
SALE OF SUBDIVIDED LAND 117
SANITATION IN SUBDIVISIONS 119
SUBDIVISION AND PLATTING ACT 121

UTILITIES 124
HIGHWAY UTILITY EASEMENTS 124
IMPROVEMENT AND UTILITY DISTRICTS 125
MAJOR FACILITY SITING 126
OVERHEAD LINES 126
PIPELINES - MAINS - UTILITY LINES 126
UTILITY REGULATION 127

WATER 128
DAMS AND RESERVOIRS 128
PUBLIC WATER SUPPLY 129
SEPTIC TANKS, CESSPOOLS AND PRIVIES 131
SEWER SYSTEMS 132
WATER APPROPRIATIONS - GROUND WATER 133
WATER APPROPRIATIONS - SURFACE - DIVERSIONS 134
WATER POLLUTION: DISCHARGE PERMITS 138
WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS 141
WATER WELLS 141

WEATHER MODIFICATION 144

MONTANA ENVIRONMENTAL POLICY ACT 147

MONTANA ADMINISTRATIVE PROCEDURES ACT 150

APPENDIX 1: MONTANA STATE AGENCIES 151

APPENDIX 2: STATE AGENCY REGIONAL OFFICES 165

APPENDIX 3: LOCAL PERMITTING AUTHORITIES 170

APPENDIX 4: FEDERAL AGENCIES 176

INTRODUCTION

Permit Index

The *Montana Index of Environmental Permits* (permit index) was prepared by the Environmental Quality Council to provide a comprehensive list of the permits and licenses needed to conduct activities that might affect Montana's environment. The permit index briefly describes most state environmental permits, lists the permitting agencies, and cites the statutes and rules that regulate each permit.

In most cases, the permit index will alert the reader to the need to obtain a permit or license, but more detailed information regarding specific application procedures, evaluation standards, operating requirements, enforcement and other legal considerations should always be obtained from the administering agency before proceeding with a project. Remember, the permit index is not a legal document; it should be used as a starting block, not a substitute for contacting agencies or carefully reading the statutes and rules.

The State and Federal Regulatory Structure

For users unfamiliar with the operation of Montana state government, a brief description of its organization and governance may be helpful. There are fourteen principal departments within the executive branch. These agencies administer programs established by statute (contained in the Montana Code Annotated), rule (contained in the Administrative Rules of Montana) and sometimes departmental guidelines. The agencies most commonly involved in the issuance or review of environmental permits include the Department of State Lands, the Department of Natural Resources and Conservation, the Department of Health and Environmental Sciences, the Department of Highways, the Department of Fish, Wildlife and Parks, and the Department of Public Service Regulation.

The legislature develops policy for the use and conservation of Montana's natural resources through the enactment of laws and the establishment of associated programs. The Environmental Quality Council, a legislative agency created in 1971 and composed of legislators, citizen members, and a representative of the Governor,

is charged with overseeing the implementation of environmental policies and anticipating and resolving environmental problems.

Montana administers several federal environmental programs under agreement with the United States Environmental Protection Agency. These include air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of the Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). Some federal programs are mentioned in the permit index, but the user should check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners, or local health officials also administer permits. See Appendix 3 for a listing.

How to Use the Permit Index

The permit index is organized both by activity (e.g. mining, agriculture) and land designation (e.g. floodplain, conservation district). To best utilize the permit index, look up the proposed activity in the table of contents or the index and read the activity section on the page referenced. Then check the land designation section if the activity is proposed in a specially designated area. Note that the land designation section should be used primarily as a reference to complement information in the activity section. Finally, check the other permits referenced under the activity. For example, a person researching a proposed coal mine on state land would first locate the coal and uranium mining section in the index, then turn to the referenced page and read the information on the coal mine operating permit. Within the coal and uranium mining section, permits for water discharge, air quality, and waste management are all referenced. After reading the section on coal mining, check "state lands" in the land designation section.

As illustrated in the example, the additional permits or licenses required are generally referenced under the activity; however, it is important to check with the agencies listed to be aware of any other required permits. Also keep in mind that any project that may have an impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 147). This act is administered by the primary permitting agency for any specific project.

Several appendices are included to increase the utility of the directory. Appendix 1 lists state permitting agencies and the activities they regulate. Appendix 2 lists state agency regional offices that may need to be contacted for specific information and permit applications. Appendix 3 lists local permitting authorities and the types of permits with which they are concerned. Appendix 4 lists federal agencies having regulatory responsibilities for activities undertaken in Montana.

General Information

The permit index is a starting point for finding information on environmental regulations for certain activities. It does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid pitfalls, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), the Department of Commerce (444-3494), or the Citizen's Advocate Office (444-3468, 1-800-332-2272).

DIRECTORY OF PERMITS

LAND DESIGNATIONS

If the proposed development or activity will be located in one of the following special land designations, check with the appropriate authorities for special land use and activity restrictions.

AIRPORT AREAS

1. **Types of Activities Regulated**

Airport areas are regulated by three main laws (see below). Generally, the following considerations are important when building near an airport: safety of airport users, character of flying operations, noise levels, terrain, future development and Federal Aviation Administration regulations.

A. Airport Influence Areas: Local governments and airports work together to designate airport influence areas that are within 10,000 feet of the runway. Structure and tree heights are regulated within these areas to ensure public safety and safe flying conditions. Anyone building or altering a structure or growing a tree in an airport influence area must apply to the local government in charge of airports for a permit.

Statute: 67-4-101 *et seq.*, MCA

Contact: Local Government
Zoning Board

B. Airport Hazard Regulation: Within two miles of an airport or landing field, no structure or tree may have a height of more than one-twentieth its distance from the nearest boundary of an airport (one-seventh of the distance if the structure is not in the approach or turning zones). Permit applications should be made with the federal, state, county or municipal government that regulates the airport.

Statute: 67-5-101 *et seq.*, MCA

Contact: Local, state or federal government that has jurisdiction over the airport

C. Airport Zoning Act: Federal, state or local governments having authority over airports may adopt regulations dividing airport hazard areas (areas within two miles of airports) into zones and specifying land uses permitted within each zone. The governments may, but are not required to, establish permitting systems for these zones above and beyond the hazard regulation permits. A variance may be granted if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: Airport Zoning Act, 67-6-101 *et seq.*, MCA

Contact: Local, state or federal government that has jurisdiction over the airport

Department of Transportation
Aeronautics Division

CONSERVATION DISTRICTS

1. General

Lands located within a soil and water conservation district may be subject to land use regulations designed to conserve soil and water resources and prevent and control erosion. These regulations are adopted with voter approval through a referendum and are administered by the conservation district supervisors. Once the referendum is enacted, the district supervisors may compel compliance through a petition to district court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed. The County Conservation District requires a 310 Permit when an applicant proposes work in or near a stream on public or private land (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11). Other types of activities regulated may include the following: engineering operations for dams, dikes, ponds, ditches, fences, and other construction; cultivation methods or grazing, including contour cultivating and furrowing, sowing, planting, seeding and forestation; cropping

and tillage practices; and other practices to prevent soil erosion.

Statute: 76-15-701 *et seq.*, MCA

Contact: Conservation District Supervisors

Department of Natural Resources and Conservation
Conservation Districts Bureau

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Department of Natural Resources and Conservation if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, DNRC must enforce minimum standards adopted by the Board of Natural Resources and Conservation.

Statute: Floodplain and Floodway Management Act, 76-5-101 *et seq.*, MCA

Rule: ARM 36.15.101, *et seq.*

Contact: Local Government (City or County)

Department of Natural Resources and Conservation
Water Resources Division
Engineering Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the DNRC or the local government and must contain maps, plans, profiles and specifications of the obstruction or use of the water course or drainway.

Statute: 76-5-405(1), MCA

3. Permitting Procedures

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days after receipt of an application.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. Fees

An application fee, set by the local government, is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

Rule: ARM 36.15.204

5. Criteria

The following criteria must be considered by the local government in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and cause injury; alternative methods of construction or alteration of obstruction or use which will minimize the danger; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area and other factors specified by law.

Statute: 76-5-406, MCA

Rule: ARM 36.15.216

HERITAGE SITES

1. Types of Activities Regulated

State actions or state licensed, assisted, or permitted actions that have the potential to substantially alter heritage properties or paleontological remains on state-owned lands are regulated, as is excavation of heritage properties on state-owned lands.

In consultation with the State Historic Preservation Office, the land management agency is required to determine whether a proposed action, initiated by the agency or by an applicant's request for a license or permit, may impact sites, structures or objects on state-owned lands that qualify or would qualify as heritage properties. If the action will affect such properties, the agency must seek ways to avoid or mitigate substantial alterations of the property whenever feasible. These procedures may require completion of a systematic cultural resources inventory, recordation of a property likely to be harmed, consideration of alternative projects, special protective stipulations, project modifications or denial of the project. Agencies may require applicants for permits or licenses to complete portions of this analysis. The land management agency is responsible for insuring that proper procedures are followed. After consultation with the Preservation Office, the agency is responsible for determining how to proceed with the proposed action.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Rule: Department of State Lands and the Department of Fish, Wildlife and Parks have agency rules; for other agencies check with the agency or the State Historic Preservation Office, Montana Historical Society

Contact: State Historic Preservation Officer
Montana Historical Society

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate a heritage property or paleontological remains on state-owned land for scholarly purposes must obtain an "antiquities permit" from the State Historic Preservation Officer. Permits may not be granted unless the Historic Preservation Officer is satisfied that the individuals carrying

out the proposed work are qualified to guarantee proper excavation of those sites and objects that may add substantially to existing knowledge of the state and its antiquities.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Contact: Montana Historic Preservation Officer
Montana Historical Society

2. Criteria

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places Criteria for Evaluation.

3. Additional Information

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use and land condition. The material assists the agency and the State Historic Preservation Office to determine whether a cultural resource inventory of the proposed area is needed.

LAKESHORES

1. Types of Activities Regulated

If the local government has adopted lakeshore protection regulations, a permit is required for any work that will alter the current or cross-sectional area of a navigable lake or its shore. Such activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 217, MCA

Rule: As adopted by local governments

Contact: The local governing body authorized to administer the Subdivision and Platting Act on land adjoining a lake, i.e., a board of county

commissioners or the governing authority of the appropriate city or town.

Department of Natural Resources and Conservation
Water Resources Division

2. Application Requirements

Specific application requirements are set out in regulations adopted by the local government.

3. Permitting Procedures

A. Local Regulations: Check with local government for specific procedures.

1) The local government must seek the recommendations of the local planning board.

2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

3) The planning board must report its recommendations to the local government as to whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.

4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

B. Time requirements:

Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207, 211 through 213; MCA

4. **Fees**

An application fee of $10 must be submitted to the local government.

Statute: 75-7-210, MCA

5. **Criteria**

The following are minimum requirements and do not restrict a local government from adopting additional or more stringent regulations as may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

A. materially diminish water quality;

B. materially diminish habitat for fish or wildlife;

C. interfere with navigation or other lawful recreation;

D. create a public nuisance; or

F. create a visual impact discordant with natural scenic values as determined by the local government, where such values form the predominant landscape elements.

6. **Additional Information**

Land owners may petition the Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

NATURAL AREAS

1. **Types of Activities Regulated**

A natural area is one affected primarily by natural forces, with outstanding natural features worthy of preservation, and with minimal evidence of human activity. State-

owned lands which are controlled or acquired by the Board of Land Commissioners may be designated as natural areas and leased for such purposes. Each area so designated will be leased and managed by a "managing entity" and will be subject to a master plan setting forth specific land use limitations and controls. Activities allowed in natural areas include grazing, recreation and snowmobiling. If feasible, the state of Montana will hold the water and mineral rights in order to adequately protect the area.

Statute: 76-12-101 *et seq.*, MCA

Rule: ARM 26.5.201 *et seq.*

Contact: Board of Land Commissioners

Department of State Lands
Land Administration Division
Surface Management Bureau

OPEN SPACE - CONSERVATION EASEMENTS

1. Types of Activities Regulated

Any public body may acquire title to or interest in real property for the purpose of preserving natural, scientific, educational or aesthetic resources. An interest less than fee simple ownership is obtained by a "conservation easement", whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc. The existence of a conservation easement should appear on the deed to the property.

Statute: 76-6-101 *et seq.*, MCA

Contact: Local Government
County Clerk and Recorder

Department of Fish, Wildlife and Parks
Field Services Division

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land, including the beds of navigable waterways, generally require permits, leases or easements from the Department of State Lands and approval from the Board of Land Commissioners. (See: HERITAGE SITES, p. 5; AGRICULTURE, p. 14; FORESTRY, p. 41; GEOTHERMAL LEASES, p. 28; HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS, p. 30; MINING, p. 65; NATURAL AREAS, p. 8; and OIL AND GAS, p. 90).

In addition, the Department of Fish, Wildlife and Parks, the Department of Natural Resources and Conservation, and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements

The Board of Land Commissioners may grant easements on state lands for schoolhouse sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and verified plats. The board also may grant an easement for right-of-way across any portion of state lands, including the beds of navigable waterways, for any public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use (see HIGHWAY ENCROACHMENTS - EASEMENTS, p. 49). Application for an easement on state lands must be made to the Department of State Lands. Compensation must be the full market value of the use of the land, plus any diminution in value of adjacent state lands.

3. Exchange of Land

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. Prior to the land exchange, a public hearing must be held in the county containing the state land to be exchanged. Objections to the exchange may be made at the hearing.

4. Sales of Land

The Board of Land Commissioners is authorized to sell state lands, with the exception of timberlands and those lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than one section of state land, and this area shall not include more than 160 acres of land susceptible of irrigation. All sales of state lands are conducted through public auction held at the county courthouse of the county in which the lands are located. The current lessee of state land retains a preference right which allows the lessee to match the high bid and, therefore, be awarded the sale.

5. Leases

State lands may be leased to any person over 18 years old, heads of families, and to associations, partnerships and corporations. When the department receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the board determines that the highest bid is not in the best interest of the state. For more details on specific types of leases, see AGRICULTURE, p. 14; FORESTRY, p. 41; MINING, p. 65; GEOTHERMAL LEASES ON STATE LANDS, p. 28; and OIL AND GAS, p. 90.

Statute: Title 77, Chapters 1-6, MCA

Rule: ARM 26.2.201 *et seq.*, ARM 26.2.301 *et seq.*

Contact: Department of State Lands
Land Administration Division

STREAM BEDS - STREAM BANKS - WETLANDS

1. Types of Activities Regulated

Any private, non-governmental individual or corporation that proposes to work in or near a stream on public or private land must apply for a 310 permit from the board of supervisors of the conservation district in which the project takes place. Prior to initiating any activity, the applicant should contact the Soil and Water Conservation District Supervisor (Title 76, Chapter 15, MCA), the Grass Conservation District Supervisor (Title 76, Chapter 16, MCA) or the Board of County Commissioners.

Under Section 10, Rivers and Harbors Act of 1899, any structure or work on, over, or under navigable waters requires authorization from the U.S. Department of the

Army, Corp of Engineers. Navigable waters in Montana regulated by the Corp under the Rivers and Harbors Act include the Missouri River, Yellowstone River, and part of the Kootenai River.

In addition, a permit is required under Section 404 of the Clean Water Act for the placement of any dredged or fill material into United State's waters or wetlands.

Statute: Natural Streambed and Land Preservation Act, 75-7-101 *et seq.*, MCA
Rivers and Harbors Act, 33 USC 401 *et seq.*
Clean Water Act, 816, 33 USCA 1251 *et seq.*

Rule: 33 CFR 209 and 40 Federal Register 31319
ARM 36.2.401, *et seq.*

Contact: Conservation District Supervisors, (see APPENDIX 3 for a list of conservation district supervisors by area); or

Board of County Commissioners; or

Department of Natural Resources and Conservation
Conservation Districts Bureau

U.S. Department of the Army
Corps of Engineers
District Engineer

Department of Fish, Wildlife and Parks
Fisheries Division

2. **Permitting Procedures**

Any person planning a project in or near a stream must contact the conservation district office to obtain a permit application prior to any related activity. After submission of an application, district supervisors must determine within five days of their monthly meeting if the proposed activity requires a 310 permit. If a permit is required, a team composed of a district supervisor; a Department of Fish, Wildlife and Parks biologist; and the landowner conduct a site inspection. The supervisors have 60 days from the date of application to approve or deny the permit.

Statute: 75-7-112 through 116, MCA

3. Criteria

The regulatory purpose of the Natural Streambed and Land Preservation Act is to minimize soil erosion; maintain water quality and stream channel integrity; and prevent property damage to adjacent landowners.

Statute: 75-7-102, MCA

4. Additional Information

A. Emergencies

No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together as described above to evaluate the project.

Statute: 75-7-113, MCA

B. Public Projects

Before engaging in any project that may obstruct or alter a stream, a state or local government agency must first provide a notice to the Department of Fish, Wildlife and Parks, on forms provided by the DFWP, at least 60 days prior to commencement of construction. Within 30 days after receipt of project plans, the DFWP must notify the applicant whether the project will adversely affect fish or wildlife habitat. The DFWP may require modifications to the project. If agreement cannot be reached, an arbitration panel may be appointed by the district court.

Statute: 87-5-501 *et seq.*, MCA

Contact: Department of Fish, Wildlife and Parks
Fisheries Division

AGRICULTURE

ANIMAL CONFINEMENT FACILITIES (Feedlots)

1. Types of Activities Regulated

A permit is required from the Department of Health and Environmental Sciences for any animal confinement facility which could discharge livestock waste into state waters following a 25-year, 24-hour or smaller rainfall event. (See WATER POLLUTION: DISCHARGE PERMITS, p. 138. Other permits may also be required depending on the location of the facility: see STREAM BEDS, STREAM BANKS, WETLANDS p. 11; CONSERVATION DISTRICTS p. 2).

Rule: ARM 16.20.633 and 16.20.1301 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

CROPLAND LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a "crop share rental value" of not less than one-fourth of the annual crop, or the usual "landlord's share", whichever is greater. (See also GRAZING p. 16).

Statute: 77-6-501 *et seq.*, MCA

Rule: ARM 26.3.129 *et seq.*

Contact: Department of State Lands
Land Administration Division
Surface Management Bureau

2. Leasing Procedures

A. Leases go to the highest bidder, unless the board determines that this decision would not be in the state's best interest.

B. Present leaseholders have a preference right over others seeking to lease the same land. Such present holders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

C. Lease terms are five or ten years.

Statute: 77-6-201 *et seq.*, MCA

FERTILIZER REGISTRATION

1. Types of Activities Regulated

Fertilizers and soil amendments, except unmanipulated animal and vegetable manures, must be registered with the Department of Agriculture (DOA) before distribution in Montana. An annual license, which expires on December 31 of each year, is required from the DOA to sell or distribute fertilizer. (See also PESTICIDES, p. 18).

Statute: 80-10-201 and 202, MCA

Rule: ARM 4.12.601 *et seq.*

Contact: Department of Agriculture
Plant Industry Division

2. Application Requirements

The applicant for a fertilizer distribution license must complete forms provided by the DOA. The application must include the brand, grade and guaranteed analysis of the fertilizer, the source of each plant food element, the name and address of the applicant, a copy or facsimile of the label and promotional material, and, if requested, replicated data verifying claims for effectiveness.

Statute: 80-1-201 *et seq.*, MCA

Rule: ARM 4.12.601 and 604

3. Fees

A. The fee for registering fertilizers is $20 per grade for each fertilizer and soil amendment, and $35 for each specialty fertilizer.

B. New applicants for fertilizer distribution licenses, or those failing to renew by January 1, pay a nonrefundable $75 fee. License renewals received before January 1 are $50.

C. The DOA also assesses inspection fees on the tonnage of fertilizer distributed. These fees are 10 cents per ton for soil amendments, 60 cents per ton for fertilizers and $1 per ton for anhydrous ammonia.

Statute: 80-10-201, 202 and 207; MCA

Rule: ARM 4.12.608

GRAZING

1. Grazing Districts

A. Preferences and permits for grazing within a grazing district must be obtained from the district directors.

Statute: 76-16-310, MCA

Contact: Grazing District Directors

B. Any person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application to the district. Temporary permits may be issued to non-members on an annual basis upon application to the district.

C. Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer is to be made. A

transfer is not effective until approved by the Department of Natural Resources and Conservation.

D. Prior to the transfer, a public hearing must be held before the board of directors of the district.

Statute: 76-16-401 *et seq.*, MCA

2. State Leases

A. The Department of State Lands issues leases, through competitive bidding, for grazing on state lands.

Statute: 77-6-101 *et seq.* and 77-6-201 *et seq.*, MCA

Rule: ARM 26.3.129 *et seq.* and 26.2.401

Contact: Department of State Lands
Land Administration Division
Surface Management Bureau

B. Leasing Procedures

1) When the Department of State Lands receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the department headquarters in Helena.

2) A present lease holder has a preferential right to meet the highest bid unless the board determines such bid to be excessive. The preferential right may only be exercised if the present holder actually used the land as specified by rule.

3) A person bidding for the lease of state lands must deposit with the Department of State Lands a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

3. Federal Leases

The Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act

Rule: 43 CFR 4100, 36 CFR 222(A)

Contact: Bureau of Land Management
District Office

U.S. Forest Service
Forest Supervisor

PESTICIDES

1. Types of Activities Regulated

The manufacturer, formulator or distributor of each pesticide distributed, sold or transported in Montana must register the pesticide annually with the Department of Agriculture. Commercial applicators must be licensed annually by the Department of Agriculture (expiration is December 31 following date of issuance), and farm applicators must obtain special use permits for restricted pesticides. Pesticide dealers also must be licensed annually by the department (expiration is December 31 following date of issuance). Aerial applicators must register their aircraft with the Department of Transportation and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: Montana Pesticides Act; 80-8-101 *et seq.*, MCA
Montana Agricultural Chemical Ground Water Protection Act; 80-15-101 *et seq.*, MCA

Rule: ARM 4.10.1501 *et seq.*
ARM 4.11.101 *et seq.*

Contact: Department of Agriculture
Agricultural and Biological Sciences Division

Department of Transportation
Aeronautics Division

2. Application Requirements

A. The applicant for pesticide registration must file a statement with the Department of Agriculture including name and address, a complete copy of the pesticide label, trade and chemical name of the pesticide and if required by the DOA, a description of tests made and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

B. The applicant for a pesticide applicator's license must file annually with the Department of Agriculture prior to using a pesticide each year. The DOA's application and liability forms must be completed. The license is renewed if the applicant has not violated any regulations. An operator's license is required for persons employed by an applicator to apply pesticides. A pesticide applicator's and operator's examination or training also is required of each new applicant. Applicants are required to maintain their qualifications in subsequent licensing years by attending training courses.

C. An individual applying for a license to engage in aerial application of pesticides must certify on the application that he or she has met all the Federal Aviation Administration and the Department of Transportation requirements for aerial pesticide applicators.

D. An applicant for a dealer's license must file annually with the Department of Agriculture. The applicant must pass an examination administered by the DOA. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

E. Farmers must file for a new special-use permit every five years. Farm applicators qualify for their first permit by either passing a graded written examination or attending a training course approved by the DOA and taking an ungraded written examination. They must also maintain their qualifications by periodically attending training courses.

Statute: 80-8-201, 203-209, 211; and 80-15-302; MCA

Rule: ARM 4.10.201, 203-209; 4.10.401-404 and 4.10.501-504

3. **Permitting Procedures**

A. The Departments of Health and Environmental Sciences, Agriculture, and Fish, Wildlife and Parks must review all applications for registration of an experimental- use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide and Rodenticide Act.

B. The Departments of Health and Environmental Sciences and Fish, Wildlife and Parks must approve or disapprove applications within 10 days after receipt.

C. If two of the three departments are in agreement with the proposed registration, the Department of Agriculture must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

A. The fee for each registered pesticide is $150 annually.

B. The fee for a special local need or experimental-use permit registration is an initial one-time fee of $70.

C. The fee for a commercial pesticide applicator's license is $45 annually.

D. The annual fee for a government applicator's license is $50 for each of the first four employees of the government agency, and $5 for each additional employee applicator.

E. The fee for pesticide operators is $10 each for the first two operators and $5 for each additional operator.

F. The annual application fee for a commercial dealer's license is $45. A person with an applicator's license applying for a dealer's license shall be required to pay only a $20 fee for the dealer's license. The annual fee for a government dealer's license is $50.

G. The fee for a farm applicator permit is $15 for a five year permit.

H. Dealers or applicators applying for renewal of a license must do so on or before March 1 of the calendar year. Any previously licensed dealer or applicator applying for renewal of license after March 1 is assessed a $25 late license fee.

Statute: 80-8-201, 203 through 209, 213; and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. Criteria

A. If it does not appear to the Department of Agriculture that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow him or her an opportunity to make the necessary corrections.

B. If the applicant does not make the corrections, the DOA may refuse to register the pesticide.

C. The DOA decision may be appealed.

Statute: 80-8-201(6), MCA

BUILDING AND CONSTRUCTION

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The state-wide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units, farm and ranch buildings, private garage and storage structures used only by the owner, and mine buildings on mine property regulated under the Metal Mine Reclamation Act. Such structures may be regulated only if municipalities or counties, by adopting local ordinances or resolutions, make the state building code applicable to these residential and farm or ranch structures. If towns or counties adopt local building codes, enforcement is by local rather than state authorities.

2. Application Procedures

A permit must be obtained from the appropriate authorities before construction can begin.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 8.70.101 *et seq.*

Contact: City or Town Council

Board of County Commissioners

Department of Commerce
Public Safety Division
Building Codes Bureau

3. Fees

Various fees are required for building, mechanical, plumbing, and electrical permits. These are listed in the Department of Commerce rules concerning building codes.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 8.70.101 *et seq.*

PLANNING

1. Applicability

The master plan is the primary land use planning tool and document of the city or county. After a public hearing, the planning board recommends the plan to the governing body, which either rejects or accepts it with or without modification. All zoning ordinances and land use decisions must "be guided by and give consideration to" the master plan. In addition, governing bodies may require subdivision plats to conform to provisions of the master plan.

Statute: 76-1-101 *et seq.*; 76-2-101 *et seq.*, MCA

Contact: Local Government
Local Planning Board

Department of Commerce
Local Government Assistance Division
Community Development Bureau

ZONING

1. Applicability

Before commencing any development or activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of height and size of buildings, percentage of lot occupied, size of yards, density of population, location and use of buildings, etc. If zoning exists, a permit for the development or activity may be required.

Statute: 76-2-101 *et seq.;* 76-2-201 *et seq.* and 76-2-401 *et seq.*, MCA (counties)
76-2-301 *et seq.,* and 76-2-401 *et seq.,* MCA (municipalities)

Contact: Local Government

Local Zoning Commission

Department of Commerce
Local Government Assistance Division
Community Development Bureau

COMMERCIAL - INDUSTRIAL - ENERGY

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

A permit from the Department of Health and Environmental Sciences is required for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, road construction (except stationary sources - see * below) and other sources which emit less than specified amounts. The city or county may administer its own air quality permit program in lieu of part or all the DHES's permit program if the program is approved by the Board of Health and Environmental Sciences.

* Permits are required for temporary crushers and asphalt plants.

Statute: Montana Clean Air Act; 75-2-101 *et seq.*, MCA

Rule: ARM 16.8.1101 *et seq.* and ARM 16.8.921 *et seq.*

Contact: Local Board of Health

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. Application Requirements

Applicants for air quality permits must file the appropriate permit applications with the DHES on forms supplied by the department neither later than 180 days before construction nor later than 120 days before installation, alteration, or use of the facility begins.

Statute: 75-2-211, MCA

Rule: ARM 16.8.1105

3. **Permitting Procedures**

A. The application for an air quality permit is not considered filed until all filing requirements are completed. However, if the DHES fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.

B. The applicant must notify the public by means of legal publication in a newspaper of general circulation in the area of the proposed facility. The notice must be made neither sooner than 10 days prior to submittal of the application nor later than 10 days after submittal. The DHES will supply the form of the notice.

C. Within 40 days after receipt of the complete and filed application for a permit, the DHES must make a preliminary determination whether the permit should be issued, issued with conditions or denied.

D. Not withstanding the opportunity for public comment (15 days), a final decision must be made within 60 days after a completed and filed application is submitted to the DHES.

E. If an application for a permit requires the compilation of an environmental impact statement, the public review procedure for environmental impact statements will apply, and the DHES has 180 days from receipt of the completed application in which to make its final decision (see MONTANA ENVIRONMENTAL POLICY ACT, p. 147). If an agency other than the DHES is the lead agency in the preparation of an EIS, the DHES's decision must be made within 30 days after the issuance of the final EIS.

F. If the DHES denies the application for an air quality permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences. Any person adversely affected by the department's decision to approve or deny the application may also appeal to the board, upon affidavit explaining the grounds for the appeal, within 15 days of the department's decision.

Statute: 75-2-211, MCA

Rule: ARM 16.8.1107-1115

4. Fees

The DHES may assess an annual fee from the applicant to fund the air quality permitting program and to implement and enforce the terms and conditions of the air quality permit.

Statute: 75-2-211, MCA

5. Criteria

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the ambient air quality standards, emission limitations and other rules adopted under the Montana Clean Air Act, and the applicable regulations and requirements of the federal Clean Air Act.

Rule: ARM 16.8.1109

6. Additional Information

A. Prevention of Significant Deterioration (PSD)

1) When a major new source of air pollution is proposed to be constructed or modified in an area whose ambient air quality is better than the applicable standards, a more stringent review procedure may apply. Such review may include one year of preapplication baseline data, control technology review, air pollution impact modeling, and other appropriate measures.

2) The DHES must: (a) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that; an application has been received, the DHES's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DHES's final determination may be appealed to the board; and (b) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the Environmental Protection Agency (EPA) and to area officials and agencies affected by the proposed construction.

Rule: ARM 16.8.921 *et seq.*

B. New Source Review in Nonattainment Areas

Major new or modified sources of air pollution locating in or near areas that are not attaining ambient air quality standards must meet additional permitting criteria, including obtaining emission offsets and installing control equipment that meets the lowest achievable emission rate (LAER).

Rule: ARM 16.8.1109(6)-(8)

C. Variances

A person may apply to the Board of Health and Environmental Sciences for an exemption from applicable rules governing emissions. Such a variance may be issued if the board finds there will be no adverse impact on public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the board's discretion and the variance may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

AIR QUALITY PERMITS: FEDERAL

Federal air quality permits are only required for activities on the state's seven Indian reservations. The state has responsibility for all other air-permit related facilities, including federal facilities.

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

Environmental Protection Agency
Montana Office, Helena

GEOTHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water rights (see WATER APPROPRIATIONS - GROUND WATER, p. 133), and may require a certificate of public need and environmental compatibility (see MAJOR FACILITY SITING ACT, p. 35). For general information, contact the Department of Natural Resources and Conservation, Energy Division, Conservation and Renewable Energy Bureau.

GEOTHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and the beds of navigable bodies of water, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 *et seq.*, MCA

Rule: ARM 26.3.401 *et seq.*

Contact: Department of State Land
Land Administration Division
Minerals Management Bureau

2. Permitting Procedures

A. A person wishing to lease state lands for geothermal operations must submit an application form supplied by the Department of State Lands containing an adequate description of the land. A water right may also be required. (See WATER APPROPRIATIONS - SURFACE - DIVERSIONS, p. 134; WATER APPROPRIATIONS - GROUND WATER, p. 133).

B. Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale or at the Commissioner's discretion.

C. Notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for four weeks preceding the sale date. Sale may be by competitive bid.

D. A bond in a minimum amount of $2000 is required to protect the state's interest in the resource.

E. The term of a geothermal lease is 10 years. Compensation must be paid to surface lessee, if any, for any damage to the surface or the lease holder's interest.

Rule: ARM 26.3.405

3. Fees

The required fee for a geothermal lease application is $25. Rental and royalty charges are determined by the board but are not less than $1 per acre, not less than 10 percent of the amount or value of steam, heat or energy produced, and not more than 5 percent of any byproduct.

Rule: ARM 26.3.405 and 408

HYDROELECTRIC POWER DEVELOPMENTT

1. Types of Activities Regulated

Non-federal hydroelectric power plants on navigable waters of the United States, those which occupy federal land or utilize water power from a government dam, or those which, under certain circumstances, affect the interest of interstate or foreign commerce must be licensed by the Federal Energy Regulatory Commission (FERC). "Navigable waters of the United States" includes virtually all waters in Montana and the other 49 states. As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the Federal Power Act (as amended by the Electric Consumers Protection Act of 1986) and agency rules, processes and evaluates the federal applications required for all hydropower dams, diversions, and other hydropower developments; reviews environmental impacts of hydropower projects and determines appropriate mitigation and enhancement measures; and sets requirements governing the sale of the hydropower generated.

There are six primary subject areas where state regulation of hydroelectric power must be considered in addition to the federal requirements under FERC. These areas (and the responsible state agencies) are:

1) Water rights permits: Contact DNRC, Water Rights Bureau, (see WATER

APPROPRIATIONS - SURFACE - DIVERSIONS, p. 134).

2) 310 permit for altering a perennial stream: Contact DNRC, Conservation Districts Bureau or the local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 2).
3) Water quality certification under Section 401 of the Clean Water Act: Contact DHES, Water Quality Bureau
4) Fish and wildlife impact evaluation (no permit required): Contact DFWP regional office.
5) Hydropower projects on state land (see below).
6) Hydropower projects on state-owned dams (see below).

In addition, a 404 permit is required from the U.S. Army Corp of Engineers for any dredge and fill activity or other work affecting United State's waters or wetlands. Contact the U.S. Department of the Army, Corp of Engineers, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).

Statute: Federal Power Act, 16, USC 791a *et seq.*

Contact: Federal Energy Regulatory Commission
Office of Hydropower Licensing
Washington D.C.

Federal Energy Regulatory Commission
Regional Office
Portland, Oregon

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands to any person, corporation or municipality. (see HYDROELECTRIC POWER DEVELOPMENT, p. 29).

Statute: 77-4-201 *et seq.*, MCA

Contact: Department of State Lands
Land Administration Division
Surface Management Bureau

2. Application Requirements

An application must be presented to the board for lease or license of a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The board has the power to reject any or all bids. Acceptance depends on which offer is considered to be most advantageous to the state. The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-4-203 through 211, MCA

HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Board of Natural Resources and Conservation may lease sites at state water projects which it determines to be feasible for energy generation and in the best interest of the people of Montana.

2. Application Procedures

A. The Department of Natural Resources and Conservation must study the economic and environmental feasibility of construction and operating a small-scale hydroelectric power generating facility on each of its dams, and shall periodically update the studies. If the board determines that hydroelectric generation at a state-owned dam is feasible based on the department's study, the board must publish an advertisement soliciting lease applications.

B. Following such publication, individuals, public utilities and electric cooperatives have 180 days to submit applications to the board. Applications must include a statement of the capability of the applicant to achieve the annual production out-put estimated by the department, the estimated time to make the project operational, the bid amount of the royalty and any other information that the board requests.

C. The board will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

D. Any necessary federal licenses or permits must be held by the Department of Natural Resources and Conservation.

E. The duration of the lease may not exceed the term of such federal permits and may in no case exceed 55 years.

F. If no acceptable applications are received, the board may reject all bids and the department may proceed to develop the hydroelectric generation facility.

Statute: 85-1-501 through 514, MCA

Contact: Department of Natural Resources and Conservation
Water Resources Division

INDOOR EMISSIONS - OCCUPATIONAL NOISE

ASBESTOS CONTROL

1. Types of Activities Regulated

The Department of Health and Environmental Sciences, Occupational Health Bureau, has the statutory authority to approve course work for accreditation of persons engaged in asbestos abatement projects, for accreditation of persons engaged in an asbestos-related occupation, and for control and issuance of asbestos project permits.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 16.42.301-405

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

U.S. Department of Labor
Occupational Safety and Health Administration

2. Accreditation Requirements

A person seeking accreditation as an asbestos inspector, an asbestos abatement management planner, an asbestos abatement project designer, an asbestos abatement contractor, an asbestos abatement supervisor, or an asbestos abatement worker must submit a properly completed application form, along with a fee, to the Department of Health and Environmental Sciences, Occupational Health Bureau, and complete an asbestos-related training course approved by the department. Accreditation for each of the above asbestos-type occupations must be renewed annually.

Statute: 75-2-502 and 511, MCA

Rule: ARM 16.42.308-310

3. Permitting Requirements and Procedures

A. No person in charge of an asbestos abatement project may perform work on any asbestos-containing material which is an integral part of a continuous surface exceeding 3 square feet or 3 feet of thermal system insulation per year without a permit.

B. Persons applying for a permit must submit, by certified mail, an application to the DHES, Occupational Health Bureau. The application should include 1) a description of the structure and the work to be performed; 2) a signed statement that all work will be performed according to federal standards; 3) a list of accredited workers; 4) a signed statement that the removed asbestos will be properly disposed of; and, 5) the required fee.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 16.42.321

4. Fees

All persons seeking accreditation or application renewal for an asbestos-related occupation must pay a $100 fee, except for asbestos workers, who must pay a $25 fee. The annual asbestos abatement project permit fee is $1000, plus an additional fee based on the percentage of the contract volume. Check with the DHES, OHB for precise amounts.

Statute: 75-2-503 and 511, MCA

Rule: ARM 16.42.401

INDOOR EMISSIONS - OCCUPATIONAL NOISE

1. Types of Activities Regulated

The Occupational Health Bureau, DHES, has the authority to regulate occupational exposure to noise and certain hazardous chemicals in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places. The DHES neither requires nor issues permits for the operation of machinery that may emit pollutants into an enclosed work area.

Statute: 50-70-112, MCA

Rule: ARM 16.42.101: Occupational Noise
ARM 16.42.102: Occupational Air Contamination

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

U.S. Department of Labor
Occupational Safety and Health Administration

RADIATION CONTROL

1. Types of Activities Regulated

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. A number of record keeping and handling requirements apply. The DHES has statutory authority to license users of naturally occurring and electronically produced radionuclides but funding is inadequate to operate a licensing program at this time.

Statute: 75-3-201 *et seq.*, MCA

Rule: ARM 16.40.301-324

Contact: Nuclear Regulatory Commission

Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

MAJOR FACILITY SITING

1. Types of Activities Regulated

A Certificate of Public Need and Environmental Compatibility may be required from the Board of Natural Resources and Conservation (BNRC) for major facilities that generate or transmit electricity, produce gas derived from coal or liquid hydrocarbons or transmit these fuels and other substances by pipeline, enrich uranium minerals, utilize or convert coal, or utilize geothermal resources. Associated facilities such as transportation links, aqueducts, diversion dams, transmission substations and other facilities associated with the production or delivery of energy are included. Crude oil and natural gas refineries and facilities subject to the Montana Strip and Underground Mine Reclamation Act are excluded. Federally owned or controlled facilities must satisfy the substantive criteria of the Siting Act. Certification is also required from the Department of Health and Environmental Sciences (DHES) to ensure that the facility will not violate air and water quality standards or other laws administered by the DHES. Special procedures apply for facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: Montana Major Facility Siting Act, 75-20-101 *et seq.*, MCA

Contact: Department of Natural Resources and Conservation
Energy Division
Facility Siting Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau
Water Quality Bureau

2. Application Requirements

An applicant for a certificate under the Montana Major Facility Siting Act must file a joint application with the DNRC and the DHES. Information concerning the need for the facility, the proposed location, baseline data, and alternate sites must be included in the application. Copies must be sent to a number of state agencies, including the Environmental Quality Council and the departments of Highways; Commerce; Revenue; Fish, Wildlife and Parks; State Lands; and the Department of Public Service Regulation.

36 COMMERCIAL - INDUSTRIAL - ENERGY

Statute: 75-20-211, MCA

Rule: ARM 36.7.2101-2107

3. **Permitting Procedures**

A. Time Requirements

1) Each person contemplating construction of a major facility within the next ten years must submit an annual long-range plan to the DNRC. No person may file an application for a facility unless the facility has been adequately identified in a long-range plan at least two years prior to acceptance of an application.

2) The DNRC and the DHES must notify the applicant within 90 days that the application is either complete or incomplete. If the application is incomplete and the applicant corrects it for resubmission, both departments then have 30 days to advise the applicant that the application is complete and accepted.

3) The DHES, within one year of the date of acceptance of a complete application, and, if a hearing is required, the board or Department of Health within an additional six months, must issue a decision on certificates, permits, etc., required under the laws administered by the Board of Health and the DHES. The DHES and the board determine compliance with all standards, permit requirements and implementation plans under their jurisdiction for the proposed location or any proposed alternate location. Those determinations are conclusive with respect to such requirements.

4) Within 22 months (or 12 months for a linear facility less than 30 miles in length) following acceptance of an application, the DNRC must report its findings and recommendations to the Board of Natural Resources and Conservation.

5) Executive branch state agencies receiving a copy of the application form must also report to the DNRC on the impact of the proposed facility in the agency's area of expertise.

6) Hearings by the BNRC must take place within 120 days of receipt of the DNRC's findings, after notification is published in local newspapers. The board must appoint a hearings officer, if any, within 20 days after the DNRC's report has been filed. At the

request of the applicant, the Board of Health and the DHES must hold any required permit hearings in conjunction with the BNRC's certification hearing. If the Board of Health and BNRC hold separate hearings on the same certificate, the boards must mutually agree on the appointment of a hearing examiner to preside at both hearings. A pre-hearing conference, which must be held following notice within 60 days after the DNRC's report has been filed with the board, must be organized and supervised by the hearing examiner. The parties to the hearing are required to submit all direct testimony, studies, investigations, reports or other exhibits in writing for consideration by the board.

7) The hearing examiner must file a report and recommendations within 60 days after conclusion of the hearing, or in the case of a joint hearing, within 90 days.

8) The BNRC must issue its decision to grant, deny or modify the application within 60 days after submission of the recommended decision by the hearing examiner.

9) The certificate must include the requirement that construction of a generation/conversion facility begin within six years from the date of certification. Linear facilities must be completed within 10 years (five years for transmission lines 30 miles or less in length). Certificates may be reviewed.

B. Appeal of Denial

Decisions of the BNRC and the Board or Department of Health can be appealed to state district court.

Statute: 75-20-216 through 220, 301, 304, 406 and 501; MCA

4. Fees

The applicant for a certificate under the Montana Major Facility Siting Act is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by the DNRC to administer the act. The DNRC may contract with the applicant for payment of the fee or the applicant shall pay the fee in installments. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

5. **Criteria**

The BNRC must issue an opinion and render a decision either granting or denying the application as filed, or granting it with conditions or modifications. This decision is based upon a number of factors, including the need for the facility; the nature of probable environmental impacts considering the state of available technology and the nature and economics of the alternatives; that the facility minimizes adverse environmental impacts compared to the alternatives; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that the DHES or the Board of Health have issued all necessary decisions, opinions, orders, certifications and permits; and that the use of public lands for location of the facility is evaluated and public lands are selected whenever their use is as economically practicable as the use of private lands and compatible with the environmental criteria listed in 75-20-503.

The Board of Natural Resources and Conservation must waive the requirement for alternative site studies and the finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

6. **Additional Information**

The board may not issue a certificate to construct a nuclear facility in Montana unless it meets stringent criteria specified in 75-20-1203, MCA. All nuclear facilities must be subject to a public referendum in order to be approved.

PIPELINES

Pipelines with inside diameters of at least 17 inches that are 30 miles long are regulated by the Montana Major Facility Siting Act. Aspects of other pipeline projects may be covered by statutes listed under UTILITIES (p. 124) and MAJOR FACILITY SITING (p. 35).

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require water pollution permits from the Water Quality Bureau of the Department of Health and Environmental Sciences. (See: WATER POLLUTION DISCHARGE PERMITS, p. 138)

FOOD PROCESSING AND SERVICE

DAIRIES

1. Types of Activities Regulated

A license for the operation of a dairy must be obtained from the Department of Livestock. All licenses must be renewed annually by January 31 following the date of expiration (December 31). Prior to construction, remodeling or relocation of a dairy, detailed plans must be submitted to the Department of Livestock for review and approval. The Department of Health and Environmental Sciences must approve the means for disposal of wastewater, sewage and air pollutants. Local health agencies may investigate or sample the dairies in their area.

Statute: 81-22-201 through 209, 305 and 403; MCA

Contact: Department of Livestock
Milk and Egg Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau
Air Quality Bureau

2. Fees

The license fees for operation of a dairy range from $5 to $50.

Statute: 81-22-208, MCA

SLAUGHTERHOUSES - MEATPACKING PLANTS

1. Types of Activities Regulated

An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock for a slaughterhouse or meatpacking plant. The Department of Health and Environmental Sciences retains jurisdiction over the proper disposal of sewage and for insuring that slaughterhouses and meatpacking plants have approved water supplies.

Statute: 81-9-201 and 202, MCA

Contact: Department of Livestock
Animal Health Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

2. Fees

The annual license fee for operating a slaughterhouse or meatpacking plant is $5.

FORESTRY

BURNING PERMITS

1. Types of Activities Regulated

During the forest fire season (May 1 - September 30, or as extended), permits are required from the recognized protection agency for the area (county, state or federal) to ignite or set a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire within forest lands. A permit is not required in a designated, improved campground.

Air quality permits for major burns [ones which on a state-wide basis will emit more than 500 tons per calendar year of carbon monoxide or 50 tons of any other regulated pollutant except hydrocarbons (an open burn of approximately 100 acres)] are required from the Air Quality Bureau of the Department of Health and Environmental Sciences. All open burners (major and minor) must comply with restrictions issued on the Ventilation Hotline (1-800-225-6779) from September to November. Open burning is allowed from March 1 to September 1 (no permit required), and prohibited from December to February.

The DHES may issue conditional air quality open burning permits for certain prohibited materials, including clean untreated wood waste at landfills and industrial sources, creosote treated railroad ties, the burning of prohibited materials for the training of firefighters, or open burning in emergency situations if certain departmental requirements set forth in ARM 16.8.1307-8 are followed.

Statute: 7-33-2205 and 76-13-121, MCA

Rule: ARM 16.8.1300 *et seq.*

Contact: County Sheriff or Board of Commissioners

Department of State Lands
Land Offices
Unit Offices
Forestry Division

U.S. Forest Service
Forest Supervisor

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

Bureau of Land Management
District Office

2. **Fees**

The fees for open burning permits are established by rule. Check with the DHES, Air Quality Bureau.

CABIN SITES

1. **Types of Activities Regulated**

Leases for cabin sites on state forest lands may be obtained from the Department of State Lands, Forestry Division. Department rules govern use and maintenance of such sites.

Rule: ARM 26.6.401

Contact: Department of State Lands
Forestry Division

HAZARD REDUCTION

1. **Types of Activities Regulated**

Fire hazard reduction agreements and, where applicable, the posting of a bond and administrative fees with the Department of State Lands, are required before conducting any timber cutting or timber stand improvements on private lands, or right-of-way clearing on private forest lands. The DSL must be notified at least 10 days prior to any clearing for right-of-way. The DSL will issue a certificate of clearance and return the bond when the agreement for reduction of fire hazard has been executed.

Statute: 76-13-401 through 414, MCA

Rule: ARM 26.6.501-503 and 511

Contact: Department of State Lands
Land Offices
Unit Offices

PORTABLE SAWMILLS

1. Types of Activities Regulated

A license from the Department of State Lands is required for any person or corporation to operate a portable sawmill on private, state or federal forest lands.

Statute: 76-13-501 through 506, MCA

Contact: Department of State Lands
Forestry Division

2. Application Requirements

An applicant for a license to operate a portable sawmill must apply to the DSL in writing, stating name, location of proposed sawmill (section, township, range), capacity of sawmill, estimated amount of stumpage to be cut, and anticipated date of initial operation.

Statute: 76-13-503(l), MCA

3. Fees

The application for a portable sawmill license requires a $2 fee.

Statute: 76-13-503(2), MCA

4. Criteria

If all application information is in order, the Department of State Lands will issue a portable sawmill permit lasting as long as the mill remains in its original setting unless the sawmill violates any state forest-protection laws.

REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER

1. Types of Activities Regulated

Permits for removal of dead or inferior timber from state forests are required from the Department of State Lands or from the Board of County Commissioners on county forests. Permits may be issued free of charge to residents of a county to use dead or inferior timber for fuel and domestic purposes. Permits also may be issued to citizens of Montana for commercial purposes at commercial rates without advertising for timber on state or county forests in quantities of less than 100,000 board feet or, in cases of emergency due to fire, insects or blow down, of less than 200,000 board feet. Farmers, ranchers and prospectors also may obtain permits for timber on state forests in quantities not to exceed 25,000 board feet for domestic purposes in the repair and development of the farm or ranch.

Statute: 7-8-2608, 2609; 77-5-211, 212, 213, MCA

Contact: Board of County Commissioners

Department of State Lands
Forestry Division or Area Supervisor

2. Fees

Fees for domestic-use permits are set by the Board of Land Commissioners. Check with the DSL regarding the required fees.

Statute: 77-5-213, MCA

STREAMSIDE MANAGEMENT ZONES

1. Types of Activities Regulated

While no permit is required to conduct forest practices in streamside management zones, special management standards do apply to the area within 50 feet of a stream, lake, or other water body. The practices of broadcast burning, clearcutting, road construction, the operation of vehicles, use of hazardous or toxic materials, and the deposition of slash or sidecasting of road materials in streams are prohibited, except as provided for by alternative practices approved by DSL.

Statute: 77-5-301 through 307, MCA

Contact: Department of State Lands
Forestry Division

TIMBER HARVESTS

1. Types of Activities Regulated

Timber owners and operators must notify the Department of State Lands prior to conducting a forest practice -- including timber harvest, road construction or reconstruction, site preparation, reforestation, or management of logging slash.

Within 5 working days of receiving notification of a forest practice, the DSL must mail to the owner or operator a receipt of notification stating either that the forest practice may proceed, or requesting an on-site consultation for the purpose of providing information on best management practices.

Statute: 76-13-131 et seq., MCA

Contact: Department of State Lands
Forestry Division

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Department of State Lands, and final approval is granted by the Board of Land Commissioners.

2. Application Requirements

A. Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper of the county in which the timber is located for a period of at least 30 days, during which time the DSL can receive sealed bids up to the hour of the bid closing, as specified in the notice.

B. In cases of emergency due to fire, pest or blow down, a sale of up to 1 million board-feet may be advertised for not less than 10 days.

C. Upon award of sale, the purchaser must execute a formal agreement, approved by the board, which describes the area where the timber is to be cut, the approximate quantity to be cut by species and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least 20 percent of the estimated value of timber sold.

Statute: 77-5-201 *et seq.*, MCA

3. Fees

The Board of Land Commissioners establishes fees for brush disposal and timber stand improvement on state lands. Check with the DSL for the fee schedule.

Statute: 77-5-204(4), MCA

4. Additional Information

A. Lands classified as timberlands are not subject to sale, but the timber on those lands may be sold. (See STATE LANDS, p. 10)

Statute: 77-2-303, MCA

Contact: Department of State Lands
Forestry Division

Board of Land Commissioners

B. A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

HIGHWAYS - TRANSPORTATION

FERRIES

1. Types of Activities Regulated

The Board of County Commissioners may lay out, maintain, control and manage county ferries. Ferries between two counties must be approved by the Board of County Commissioners.

Statute: 7-14-2802, MCA

Contact: Board of County Commissioners

2. Application Requirements

Application to operate a ferry between two counties must be made to the Board of County Commissioners of the county situated on the left bank descending the affected river, creek or slough. The application must contain a description of the proposed landings, names of the owners of the landings, and notice that the application has been served at least 10 days prior to the date of application on those landowners not participating in the application. Notice of the proposed ferry must be published by the applicant in a local newspaper and posted in three public places for four consecutive weeks. A hearing is required after notice. The owner of the land on either bank of the waters to be crossed is entitled to preference in procuring authority to construct a ferry, with the owner on the left bank descending having preference over the owner on the right bank.

Statute: 7-14-2821 through 2824, MCA

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Montana Department of Transportation (MDOT) for placing outdoor advertising signs along the right-of-way of interstate and primary highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

Statute: Outdoor Advertising Act, 75-15-101 *et seq.*, MCA

Rule: ARM 18.6.201-272

Contact: Department of Transportation
Field Offices or District Offices

2. Application Requirements

The applicant for an outdoor advertising permit must complete a form furnished by the MDOT. The owner of the land affected must agree to the erection or maintenance of the advertising sign.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.211

3. Fees

The initial fee is $6. Permits are issued for three years and renewed every three years on payment of $3.

Statute: 75-15-122(1)(2), MCA

Rule: ARM 18.6.211 and 18.6.214

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Department of Transportation for the construction of driveways and other approaches intersecting public streets and highways.

Rule: ARM 18.5.104 *et seq.*

Contact: Department of Transportation
Area Maintenance Bureau

2. Application Requirements

Application for an approach permit must be made by the owner or contract purchaser. These permits are only for the purpose of securing or changing access to property. A brief description of the proposed work, location and a plot plan must be included in the permit application. No more than two approaches will be approved for any single property tract or business establishment. Exceptions may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104, 105

3. Permitting Procedures

A. A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the Chief of the Field Maintenance Bureau of the MDOT having jurisdiction over the area.

B. Upon receipt of the request, the Chief of the Field Maintenance Bureau will arrange for a meeting with the applicant in order to discuss the proposed approach.

C. Field Maintenance Bureau personnel and the Division Traffic Engineer have authority to approve curb cuts and public and private approaches.

Rule: ARM 18.5.104

HIGHWAY ENCROACHMENTS - EASEMENTS

1. Types of Activities Regulated

Permits are issued by the Department of Transportation for construction or maintenance of encroachments on or under highway rights-of-way. (Encroachments include all private structures, devices and facilities placed upon, over or under the right-of-way. These include ditches, dikes, flumes, canals or bridges and water, sewer, electric, natural gas and communications lines.) Written permission is required from the Board of County Commissioners for any excavation or construction across county highways. Permission for easements and encroachments on or across state highway rights-of-way may be obtained from the Department of Transportation. (See STATE LANDS: Easements, p. 10)

50 HIGHWAYS - TRANSPORTATION

Statute: 7-14-2139, MCA

Rule: ARM 18.7.101-108

Contact: Board of County Commissioners

Department of Transportation
Engineering Division
Right-of-Way Bureau

See also HIGHWAY UTILITY EASEMENTS, p. 124.

ROADSIDE JUNKYARDS

See: SOLID WASTE DISPOSAL, ROADSIDE JUNKYARDS, p. 107.

HUNTING - FISHING - TRAPPING - WILDLIFE MANAGEMENT

The Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping and wildlife management, and issues all hunting, trapping and fishing permits and licenses, with the exception of aerial hunting permits (Department of Livestock) and licenses for outfitters and professional guides (Department of Commerce, see below).

The Fish and Game Commission establishes hunting and fishing seasons and restricts hunting, trapping and fishing in certain areas.

Depending on the type and location of an activity, more than one permit may be required. For example, anyone hunting on a shooting preserve must have the appropriate hunting license as well as a shooting preserve permit. Please check all sections that may apply to a proposed activity, and contact the appropriate state agency.

COMMERCIAL ACTIVITIES

BREEDING GAME BIRDS AND ANIMALS

1. Types of Activities Regulated

Any person or corporation wishing to operate a game farm, a game bird farm or a fur farm must obtain a permit from the DFWP (see also ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p. 56). Permits are issued annually and expire on January 31 of each year.

Statute: 87-4-406 through 423, MCA (Game farms)
87-4-901 through 916, MCA (Game bird farms)
87-4-1001 through 1014, MCA (Fur farms)

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Application Requirements

An applicant for a license must provide information to the DFWP on the proposed location of the farm; the species of game animals or birds that will be kept or propagated on the farm; the source of game birds or animals; the type of fence or enclosure which will be used; and the applicant's name or address.

3. Permitting Procedures

The Department of Fish, Wildlife and Parks has 30 days to approve or deny applications for game bird and fur farms and 60 days to approve or deny an application for a game farm.

4. Fees

The fee for a game farm license is $100; for a game bird farm license, $25; and for a fur farm license, $25.

Rule: ARM 12.6.1501 (Game farms)
ARM 12.6.1601 (Game bird farms)
ARM 12.6.1701 (Fur farms)

5. Exemptions

A game bird farm permit is not required for anyone who has a game bird farm but who does not sell the birds or for anyone who has a migratory game bird avicultural permit.

Statute: 87-4-902, MCA

FUR DEALERS

1. Types of Activities Regulated

Any person, firm, or corporation who engages in the buying, selling, trading or dealing of skins or pelts of fur-bearers or predators must secure a fur dealer's license from the DFWP. The license is issued annually and expires April 30 of each year.

Statute: 87-4-301, 303 and 305; MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Fees

The license fee for a resident fur dealer is $10 and for a fur dealer's agent (buyer), $10. The fee for a nonresident fur dealer's license is the same as the fee charged for a nonresident fur dealer's license in the applicant's state of residence; if the nonresident's state does not issue a nonresident fur dealer's license, the fee is $50.

Statute: 87-4-304, MCA

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

No person may act as an outfitter or professional guide without first obtaining a license from the Department of Commerce, Board of Outfitters.

Statute: 37-47-301, 308, MCA

Rule: ARM 8.39.501, 514

Contact: Department of Commerce
Public Safety Division
Professional and Occupational Licensing Bureau
Board of Outfitters

2. Application Requirements

A. Applicants for an outfitter's license must complete a two part application form provided by the Board of Outfitters. First, the applicant must provide information on his or her experience, knowledge and professional equipment. Second, the applicant must submit an "operations plan" to determine what services he or she can provide with the equipment listed, the number of clients which can be served, the compatibility of services with the area utilized, verification of permission to utilize public or private lands, and the requisite proof of the minimum level of liability insurance required. Outfitters utilizing lands under the control of the U.S. government must obtain the proper permits from the appropriate

agency. Each applicant for an outfitter's license also must pass a standard examination administered by the Board.

An applicant for a professional guide's license, or the professional guide's employing outfitter, must submit a completed professional guide license application provided by the Board.

B. Applications for an outfitter's license shall be made in the name of an individual only. A person may submit only one application for an outfitter's or guide's license in any one license year. Licenses may not be transferred.

C. Outfitter's Qualifications: An outfitter must be at least 18 years old, mentally and physically competent, own or hold under written lease the necessary equipment and facilities for the type of service to be provided; be a person with demonstrated respect for and compliance with the laws of any state or the United States regarding fish and game, natural resource conservation and preservation of the natural ecosystem; have not been convicted of, or forfeited bond of $100 or more on more than one violation of the fish and game laws of any state or the United States within the past five years, have not practiced fraud or misrepresentation in procuring any previous outfitter's, professional guide's, or conservation license from the state of Montana or promulgated any false or misleading advertising relating to the business of outfitting; have not been judged guilty by a court of law of any substantial breach of written or oral contract with any person utilizing the applicant's services as an outfitter or professional guide during the previous license year; have not committed any negligent act or misconduct while acting as an outfitter or professional guide; have not pleaded guilty to or been convicted of a felony unless civil rights have been restored pursuant to law; and the applicant must have complied with all Board regulations and state and federal laws concerning outfitters and professional guides if the applicant has previously held a license as an outfitter or professional guide. In addition to these qualifications, an applicant for an outfitter's license must have three seasons of experience in Montana or bordering states as an outfitter or a licensed professional guide working for a licensed outfitter. The Board may waive the experience requirement if: (a) the applicant owns an outfitting business; (b) the business has previously had an approved operations plan filed with the Board; (c) the applicant has worked with a properly licensed outfitter in operating the business owned by the applicant for 12 months or more.

D. Professional Guide's Qualifications: A professional guide must be at least 18 years old; mentally and physically competent; be endorsed and recommended by an outfitter with a valid license; must not have been convicted or forfeited $100 or more on more than one violation of fish and game laws or regulations in the state of Montana or the U.S. within the past five years; have not committed any act of gross negligence or misconduct while acting as a guide; have not pleaded guilty or been judged guilty of a felony unless civil rights have been restored pursuant to law; and must have been issued a valid wildlife conservation license. In addition to these requirements, an applicant for a professional guide's license must have one or more seasons of experience, or have an outfitter for whom the guide has worked for a period of at least six weeks and in the area to be guided sign the license, or have completed a training program licensed by the state and approved by the Board.

E. A licensee in good standing is exempt from retaking the written examination, but must complete an application for license renewal and comply with the Board's provisions. An application for license renewal must be submitted by January 1st of the license year.

F. On a form provided by the Board and upon payment of the required fee, an outfitter may apply for amendment to his or her outfitter license. The amendment shall be approved upon a showing that the requisite qualifications to the amendment have been met.

Statute: 37-47-302 through 307, MCA

Rule: ARM 8.39.501 through 510, 8.39.514 through 515

3. Fees

Applications shall be accompanied by license and processing fees as specified by the department.

Statute: 37-1-134, MCA

Rule: ARM 8.39.518

ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS

1. Types of Activities Regulated

A. It is unlawful to operate a roadside menagerie or zoo (a place where one or more wild animals, birds or reptiles are kept in captivity for exhibition or attracting trade) or to buy or capture wild animals for a menagerie or zoo without a permit from the DFWP. A permit is not required for the exhibition of any animal by an educational institution or in a zoological garden chartered as a nonprofit corporation by the state, nor for animals exhibited by any traveling theatrical exhibition or circus.

B. It is unlawful to possess a wild animal (skunk, fox, raccoon or bat) except as part of a fur-bearing enterprise, zoo, or for scientific research. Animals possessed for six months prior to January 1, 1982 are exempt.

Statute: 87-4-801 through 804; 50-23-101, *et seq.*, MCA

Rule: ARM 12.6.1301-1309

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division (Roadside zoos)

Department of Health and Environmental Sciences
Health Services Division
Preventive Health Services Bureau (Possession of foxes, skunks, bats or raccoons)

2. Application Requirements

Application for a roadside menagerie or zoo permit must be completed on forms provided by the DFWP. No permit can be issued or renewed until the roadside zoo or menagerie is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. Fees

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SEINING

1. Types of Activities Regulated

Any person who wishes to seine, transport or capture and sell non-game bait fish (with the exclusion of carp, goldfish and rainbow smelt) in any lake, stream or body of water must obtain a license from the DFWP.

Statute: 87-4-602, MCA

Rule: ARM 12.7.201(1)

Contact: Department of Fish, Wildlife and Parks
Fisheries Division
Regional Offices for Minnows

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the department stating his or her name and address, the waters desired for seining and the purpose for which the bait fish are being seined.

Rule: ARM 12.7.201(1)

3. Fees

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

4. Additional Information

Unless permitted by statute or other department authorization, bait fish may not be imported into or exported from the state of Montana for commercial or other purposes by a licensee or other person.

Rule: ARM 12.7.201(5)

SHOOTING PRESERVES

1. Types of Activities Regulated

The DFWP issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license or a 3-day nonresident shooting preserve bird hunting stamp. Game that may be hunted on a preserve is limited to artificially propagated pheasants, quail, chukar partridges, turkeys and other species as prescribed by the DFWP.

Statute: 87-2-404, MCA
87-4-501 through 504, 522; MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Criteria

Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. The exterior boundary of each shooting preserve must be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

Statute: 87-4-502, MCA

3. Additional Information

The DFWP will furnish self-locking pheasant tags to licensed shooting preserve operators for 10 cents each. All harvested game must be tagged prior to removal from or consumption on the premises.

Statute: 87-4-525, MCA

Rule: ARM 12.6.1201

4. Fees

Fees for shooting preserve licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres.

Statute: 87-4-503, MCA

FISHING, HUNTING AND TRAPPING LICENSES

1. Types of Activities Regulated

All persons wishing to pursue, hunt, trap, take, shoot or kill any game animal, game bird or fur-bearing animal must have a license from the Department of Fish, Wildlife and Parks.

Statute: 87-2-103, MCA
87-2-301 *et seq.* MCA; fishing licenses
87-2-401 *et seq.* MCA; game bird licenses
87-2-501 *et seq.* MCA; game animal licenses
87-2-601 *et seq.* MCA; trapping licenses
87-2-701 *et seq.* MCA; special licenses

Rule: ARM 12.3.101-301

Contact: Department of Fish, Wildlife and Parks
Administration and Finance Division
License Bureau

2. Application Requirements

A wildlife conservation license must first be purchased prior to obtaining any hunting, fishing or trapping license. Licenses for hunting, trapping or fishing can be obtained by completing an application form as prescribed by the Department of Fish, Wildlife and Parks from the DFWP director, any warden, or any agent of the director. Hunting and fishing licenses expire on the last day of February, and trapping licenses on the last day of June.

Statute: 87-2-106, MCA
87-2-201, MCA

3. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process which takes two to three months. Applications for special licenses must be completed by June 1. Nonresident combination big game licenses are limited and are issued on a first come - first serve basis with an application deadline of March 15.

4. Criteria

All applicants are eligible if they meet residence, hunter safety instruction, and age requirements. Licenses and permits must be in the person's possession at the time of the activity.

5. Fees

Fees vary according to the type of license issued. Contact the DFWP, License Bureau.

FISHING, HUNTING AND TRAPPING REGULATIONS

1. Types of Activities Regulated

Certain fishing, hunting and trapping regulations are established annually by the DFWP depending on a number of factors, including the current population of a species, climactic conditions, etc. Check with the department for the latest requirements for a specific area or species.

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

The following items or activities are among those regulated by the DFWP.

Activity / Item	Statute / Rule
Aerial hunting	87-3-126, MCA
Big game hunting	87-3-301 through 307, MCA
Buying, selling, possessing or transporting fish or game	87-3-111, MCA
Fish hatcheries	87-3-201, MCA
Ice fishing shelters	ARM 12.6.101
Importation or introduction of wildlife	87-3-105, MCA
Importation of salmonid fish or eggs	87-3-210, 221, MCA
Number of game animals killed	87-3-103, MCA
Package labeling	87-3-114, MCA
Seining or netting fish	87-3-205, MCA
Spotlighting	87-3-122, MCA
Snare trapping	87-3-107, MCA
Use of dogs for hunting	87-3-124, MCA
Use of fish as bait	87-3-203, MCA
Use of explosives or poisons for fishing	87-3-206, MCA
Wasting fish or game	87-3-102, 506, MCA

WILDLIFE PROTECTION

GAME PRESERVES

1. **Types of Activities Regulated**

It is unlawful for any person to carry or discharge firearms, and to hunt, disturb, or threaten animals or birds within a game preserve established by the legislature or by the Fish and Game Commission. Permits to capture birds or animals, to trap fur-bearing animals or to hunt certain predators within a preserve may be granted by the director upon the payment of a fee and in accordance with rules established for the preserve by the commission.

Statute: 87-5-401 through 406, MCA

Rule: ARM 12.9.201-210

Contact: Department of Fish, Wildlife and Parks
Wildlife Management Division

IMPORTATION OF FISH, FISH EGGS AND WILDLIFE

1. **Types of Activities Regulated**

A. It is unlawful to bring live or dead salmonid fish or eggs into Montana without written certification from the state of origin that the fish are free of diseases as specified in ARM 12.7.501 and all salmonid fish or eggs must be accompanied by a permit issued by the DFWP. The department may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The DFWP also may impound shipments for further inspecting and testing if reasonable cause exists.

Statute: 87-3-221, MCA

Rule: ARM 12.7.501

B. It is unlawful to transfer or introduce any fish or fish eggs into any body of water or to import game birds, game or fur-bearing animals, or non-game wildlife into the state without approval from the DFWP.

Statute: 87-3-105, MCA

NONGAME AND ENDANGERED SPECIES

1. Types of Activities Regulated

No person may take, possess, transport, export, sell or offer for sale, and no common or contract carrier may knowingly transport or receive any species or subspecies of wildlife listed as endangered. Species currently listed are: the American peregrine falcon, the whooping crane, the Northern Rocky Mountain wolf, and the black-footed ferret. Exceptions are 1) in emergency (life-threatening) situations; 2) when necessary to prevent property damage or to protect human health if a permit is first obtained from the director of the DFWP, and where possible, done by or under the supervision of an agent of the department. The director of the department may also permit the taking of endangered species for special purposes such as scientific research or for propagation in captivity.

Other nongame wildlife species not listed as endangered may also be regulated by the department.

Statute: Nongame and Endangered Species Conservation Act; 87-5-101 *et seq.*, MCA

50 CFR 17.1 *et seq.*

Rule: ARM 12.5.201 and 301

Contact: Department of Fish, Wildlife and Parks
Wildlife Management Division

USE OF POISON BAIT ON DEPARTMENT LANDS

1. Types of Activities Regulated

No 1080 baits can be placed on DFWP lands without written permission from the Fish and Game Commission.

Statute: 87-1-201 and 301, MCA

Rule: ARM 12.9.106

Contact: Department of Fish, Wildlife and Parks
Wildlife Division

WILD BIRD PERMITS

1. Types of Activities Regulated

A. No person may hunt, capture, possess, purchase, sell or transport any nongame wild bird or part of a wild bird without a certificate or permit from the DFWP. Exceptions are 1) sparrows, crows, starlings, magpies, rock doves, blackbirds, magpies and other species and their eggs or nests as designated by the DFWP, and 2) parts or plumage of eagles used for religious purposes by a member of an Indian tribe when permitted by federal law.

B. Licenses are required for any person to possess a raptor or to train a raptor in the practice of falconry. Certain species may not be captured in Montana for the sport of falconry: the peregrine falcon, the bald eagle and the osprey.

C. The DFWP may grant permits for the taking and holding of raptors for commercial breeding purposes under certain specific conditions.

D. A permit is required from the DFWP to hunt, take, capture or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents, collecting abandoned birds' nests for schools and museums, and nursing sick or injured birds.

Statute: 87-5-201 through 210, MCA

Rule: ARM 12.6.1101-1118 and 12.9.301

Contact: Department of Fish, Wildlife and Parks
Wildlife Management Division
Law Enforcement Division

2. Fees

The proposed fee (pending formal approval) for a 3-year falconry permit is $25, and for a 1-year captive raptor breeding permit, $25.

MINING

COAL AND URANIUM MINING: MINE-SITE LOCATION PERMITS

1. Types of Activities Regulated

A mine-site location permit is required prior to commencing any preparatory work (i.e., any on-site disturbances, including construction of roads, rail spurs, buildings, power lines, etc., but excluding prospecting) unless an operating permit has been granted under the Strip and Underground Mine Reclamation Act (see COAL AND URANIUM MINING: OPERATIONS, p. 66) The application for such a permit includes a long-range mining plan. A mine-site location permit is valid for one year and renewable until an operating permit is obtained.

Statute: Strip and Underground Mine Siting Act; 82-4-101, MCA

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

Any person who desires a mine-site location permit must file an application with the Department of State Lands. The application must contain a reclamation plan for any preparatory work and other information required by the DSL. The DSL may require maps showing a water drainage plan, location of all adjacent waters, buildings, roads, cemeteries, etc.; geologic cross sections; a public liability insurance policy, etc. The applicant is also required to file with the DSL a surety bond payable to the state in a sum determined by the Board of Land Commissioners. The sum may not be less than $200 or more than $10,000 for each acre of land disturbed by preparatory work, with a minimum total bond of $5,000.

Statute: 82-4-122 and 123, MCA

Rule: ARM 26.4.1101-1129

3. Permitting Procedures

The Department of State Lands must notify the applicant of its decision within 365 days of receipt of the complete application. If the proposed site is approved, the DSL

must issue a mine-site location permit. If the location is not approved, the DSL must notify the applicant in writing, stating reasons why the location is unacceptable. The DSL must also notify the applicant within 365 days of the acceptability of the mine plan. If the plan is not acceptable, the DSL must state its reasons. It may propose modifications, delete areas or reject the entire plan.

Statute: 82-4-122, MCA

4. **Fees**

A fee of $50 is required for a mine-site location permit.

Statute: 82-4-123, MCA

5. **Criteria**

The mine-site location permit may be denied for numerous reasons, including, but not limited to: inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, threat of a public hazard, or designation of the land as unsuitable for mining.

Statute: 82-4-125, 227 and 228, MCA

Rule: ARM 26.4.1141-1148

COAL AND URANIUM MINING: OPERATIONS

1. Types of Activities Regulated

A person must obtain a permit from the Department of State Lands (DSL) prior to engaging in strip or underground mining operations. The permit must designate all lands the operator reasonably anticipates will be mined during the applicable 5-year permit period. Permits may be renewed on each 5-year permit anniversary by applying for a renewal to the DSL, at least 120 but not more than 150 days, prior to the renewal date. In order to renew a permit, the operator must be in compliance with the permit requirements and the reclamation plan. An operator must reclaim and revegetate the land affected by his or her operation as rapidly, completely and effectively as the most advanced state of the art will allow, except that underground tunnels or shafts need not be revegetated. (See also, WATER POLLUTION: DISCHARGE PERMITS, p. 138; and AIR QUALITY PERMITS, p. 24).

The Research, Safety and Training Division of the Department of Labor and Industry enforces mine safety regulations.

Statute: Montana Coal Mining Code (Mine Safety) 50-73-101 *et seq.*, and Strip and Underground Mine Reclamation Act, 82-4-201 *et seq.*, MCA

Rule: ARM 24.30.1302 and 26.4.301-1309

Contact: Department of Labor and Industry
Research, Safety and Training Division
Safety Bureau

Department of State Lands
Reclamation Division

2. Application Requirements

A. Permit

A person who wishes to obtain a coal or uranium mine operating permit must complete an application furnished by the DSL that includes a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water that may be affected by the proposed operations. The application must include information regarding climate, geology, hydrology, neighboring surface waters, vegetation, etc. For mine areas containing federal coal, approximately ten copies of all applications, maps, reports and other information must be submitted. Three copies must be sent to the DSL, one to the local agency, and the remainder to the Office of Surface Mining, U.S. Department of the Interior. For mine areas not containing federal coal, three copies of all applications, maps, reports and other information must be submitted to the DSL. Each applicant for a coal mining permit must also submit, as part of the application, a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip or underground mining and reclamation operations for which the permit is sought. In addition, prior to the issuance of a permit, the operator must file with the DSL a bond payable to the state of Montana in a sum to be determined by the Board of Land Commissioners of not less than $200 for each acre or fraction of an acre of the land affected, with a minimum bond of $10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement as surety.

B. Reclamation Plan
The reclamation plan for a coal or uranium mine must set forth in detail the manner in which the applicant intends to comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal conservation, as well as measures to be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards dangerous to life and property. In addition, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222, 223 and 231, MCA

Rule: ARM 26.4.302 and 308

3. **Permitting Procedures**

A. The application for a permit or major revision of a permit, including the reclamation plan, must be submitted to the DSL, which then notifies various local governments, planning agencies, sewage and water treatment authorities, and water companies in the area of the proposed mining. Any person interested in the proposed mining, or any officer of a federal, state or local governmental agency may file written objections to the application within 30 days of the applicant publishing notice of the proposal in an area newspaper. If written objections are filed and an objector requests an informal conference, the DSL must hold an informal conference in the area of the proposed mining and notify all parties of the conference.

B. The DSL must notify the applicant by certified or registered mail within 120 days after receipt of the complete application regarding acceptability of the plan. If the application is not acceptable, the applicant may revise the application. The DSL then has another 120 days to render its decision concerning acceptability. The DSL may also prepare modifications to the application.

C. An acceptable application triggers public notice of the proposal. A landowner, operator or any person affected by the department's decision may, by written notice, request a hearing by the Board of Land Commissioners, and the hearing must be held within 30 days of the request. The board must issue its decision within 20 days.

D. Every reclamation plan is subject to annual review and modification.

Statute: 82-4-231, MCA

4. Fees

An application fee of $100 is required prior to issuance of a permit.

Statute: 82-4-223, MCA

5. Criteria

The permit for coal and uranium mining operations may be denied for numerous reasons, including, but not limited to: inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, proposed location on a significant alluvial valley floor, biological productivity, ecological fragility, threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 26.4.1141-1148

URANIUM MINING - SOLUTION EXTRACTION

1. Types of Activities Regulated

In addition to a mining permit from the Department of State Lands (see COAL AND URANIUM MINING, p. 65), permits are required from the Department of Health and Environmental Sciences for uranium mining by the solution extraction (in-situ) method.

Statute: 75-5-401 through 404, 82-4-201 *et seq.*, MCA

Rule: ARM 16.20.1101 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Department of State Lands
Reclamation Division

2. Application Requirements

The owner or operator of any proposed source discharging pollutants to ground water for purposes of in-situ mining must file a completed Montana In-Situ Mining of Uranium Control System (MIMUCS) permit application no less than 180 days prior to commencing operations. The following information is required: site definition, including an extensive topographic map of the area; plans for retention of process waters and the disposal of waste waters; plans for emergency storage, handling, treatment and disposal of leaks and spills from the waters pumped underground; a detailed monitoring program to establish baseline water quality in the production area, accompanied by maps of monitoring wells; procedures to be used to prevent leachate excursion; actions taken to confirm, determine the extent of and correct an excursion; description of well completion; various information, including a chemical description of all waste residue; proposed procedure for restoration of affected groundwater; reclamation measures, and any other information the DHES deems appropriate.

Rule: ARM 16.20.1105

3. Permitting Procedures

A. In order to determine an applicant's capability to conduct in-situ mining, pilot testing may be required by the Department of Health and Environmental Sciences after receipt of a MIMUCS permit application.

B. Upon receipt of the application and after any required pilot testing, the DHES must make a tentative determination regarding issuance or denial of the MIMUCS permit.

C. Criteria for denial are: (1) the application is inadequate or (2) degradation of state waters cannot be prevented.

D. If the tentative decision is to issue the permit, the DHES must mail the MIMUCS application to any interested person and circulate it within the geographic area.

E. The DHES must provide a period of not less than 30 days following the public notice to allow for written public comment.

F. A request for a public hearing must be made within the 30-day period cited in E above. Public notice of any hearing on the permit application must be circulated at least 30 days prior to the hearing.

G. If no hearing is held, the DHES must make a final determination on the application no later than 180 days after receipt of the completed application. If a hearing is held, the DHES must make a final determination following review of the information presented at the hearing.

H. A permit is issued for a fixed term, not to exceed 10 years.

Rule: ARM 16.20.1106-1108, 1110, 1115

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A coal or uranium mine operator must obtain a prospecting permit from the Department of State Lands for prospecting on lands not included in a current operating permit. A reclamation plan and bond must be submitted. The permit is valid for one year and must be renewed.

Statute: Strip and Underground Mine Reclamation Act; 82-4-201 *et seq.*, MCA

Rule: ARM 26.4.1001-1015 and 1101-1125

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

A. The application for a prospecting permit must be made in writing, notarized and submitted to the DSL in duplicate on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of exploration and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation and revegetation bond with the DSL in an amount determined by the department, based upon the estimated cost to the DSL of required reclamation and restoration work.

B. At least 120 days but not more than 150 days prior to the permit's anniversary date, the operator may submit an application for a permit

renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rule: ARM 26.4.1001, 1003, 1102

3. Fees

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. Criteria

The permit for prospecting for coal and uranium may be denied for numerous reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, or threat of a public hazard.

Statute: 82-4-227 and 228, MCA

Rule: ARM 26.4.1141-1148

HARDROCK MINING: EXPLORATION

1. Types of Activities Regulated

Hardrock mining laws apply to ores other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock or uranium. A state exploration license for hardrock mining and a "plan of operations" are required for any exploratory activity that causes a "material disturbance" of the surface. If the exploration is mechanized (drilling, dozing, backhoe, etc.), a license and reclamation bond are required. Hand sampling with a pick and shovel does not require state licensing or approval. State exemptions are also made for operations conducted on federal lands if the Board of Land Commissioners determines that applicable federal rules are as stringent as the state requirements.

Statute: 82-4-301 *et seq.*, MCA

Rule: ARM 26.4.101 *et seq.*

Contact: Department of State Lands
Reclamation Division
Hardrock Mining Bureau

2. Application Requirements

To initially obtain an exploration license, a specific project must be proposed to the Department of State Lands. The department has standard forms for applying for the license, as well as a sample plan of operations that shows the level of information required. The Department also accepts copies of Forest Service operating plans as long as a good map is provided. Once the DSL receives and reviews an exploration plan, an on-site visit is scheduled between the DSL, the applicant, and generally, a representative from the appropriate federal agency to calculate the amount of reclamation bond required for the project. The applicant must agree to post the bond, reclaim any damaged land, and not be in default of any other reclamation law. An exploration license is a statewide license, and only one is issued per individual or company. Any additional projects are considered amendments to the license, and each must be individually approved and bonded.

Statute: 82-4-331 and 332, MCA

Rule: ARM 26.4.102, 103 and 1101-1120

3. Permitting Procedures

On approval of the exploration plan by the Commissioner of State Lands, and after the bond is submitted, the applicant will receive a hardrock exploration license. The operator cannot legally begin explorations, however, until federal approval is also granted. The license is renewable annually on application and payment of renewal fee.

Rule: ARM 26.4.102

4. Fees

The fee for an exploration license is $5.

Statute: 82-4-332, MCA

Rule: ARM 26.4.102

5. **Additional Information**

Blasting Rules

Adopted on September 30, 1990, these rules require the Department of State Lands to investigate formal complaints regarding safety and/or property damage as a result of the use of explosives by a mining operation for explorations or operations. The rules outline a specific complaint procedure that must be followed. If the preponderance of evidence gathered by the department indicates that a company or individual's blasting has damaged property or created a safety hazard off-site, the DSL shall issue an appropriate order to mitigate the situation. If the order is ignored, the DSL must then implement noncompliance procedures. The rules do not give the DSL the authority to require compensation for any damage that has occurred. The department's findings can, however, be used by the complainant to sue the operator for property damages.

Statute: 82-4-356, MCA

Rule: ARM 26.4.141-143

HARDROCK MINING: MILLING / REPROCESSING

1. Types of Activities Regulated

A person who reprocesses tailings of waste rock (with the exclusion of small miners) from a previous mining operation must obtain an operating permit before conducting operations or disturbing land in anticipation of the reprocessing operation.

Rule: ARM 26.4.160 *et seq.*

2. Application Requirements

Any person wishing to operate a mill must obtain an operating permit for each mill complex by completing an application form provided by the Department of State Lands before construction or operation of the mill or associated facilities. The applicant must: 1) indicate the proposed date for operations; 2) provide a detailed map of the area; 3) file a reclamation bond; 4) file an operating plan; and 5) file a reclamation plan. Annual reports must be submitted describing the available ore, the tailings and waste generated, water quality monitoring, and the remaining waste and tailings capacity.

Milling operations are presumed completed and are thus subject to the reclamation time schedule outlined in the approved reclamation plan when the mill has ceased operations for a period of two years or more. A permittee may rebut this assumption by providing evidence satisfactory to the department that the operations have not been abandoned.

Rule: ARM 26.4.160 *et seq.*

3. Fees

A filing fee of $25 is required by the department unless the mill application is submitted with an associated new operating permit application.

Rule: ARM 26.4.162

HARDROCK MINING: OPERATIONS

1. Types of Activities Regulated

A. An individual or company is required to obtain a mine operating permit prior to the commencement of mining unless excluded under the conditions of the "small miner's" exemption (see B.). A reclamation bond and a reclamation plan must be submitted. Annual reports and fees are required, and the DSL conducts annual inspections for compliance with the reclamation plan. (See AIR QUALITY PERMITS, p. 24; CONSERVATION DISTRICTS, p. 2; MAJOR FACILITY SITING, p. 35; STREAM BEDS - STREAM BANKS - WETLANDS, p. 11; WATER APPROPRIATIONS - SURFACE AND GROUND WATER, p. 133; and, WATER POLLUTION DISCHARGE PERMITS, p. 138).

The Research, Safety and Training Division of the Department of Labor and Industry enforces mine safety regulations. The Division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

B. "Small miners" are exempt from many of the requirements of larger mining operations. A "small miner" is an operator or reprocessor who removes less than 36,500 tons of material (both ore and waste rock) annually, who does not hold an operating permit for other operations in the state, and whose operations leave no more than five acres disturbed and unreclaimed. The small miner exclusion also applies to two operations, each less than five acres, that are at least one mile apart and are not operated simultaneously. "Disturbed land" includes all access roads except those roads required by a federal, state or local agency that are built to the agency's specifications. The small miner must sign a small miner's exclusion statement (SMES), available at the Department of State Lands, which consists of a signed and notarized affidavit stating that he or she will stay within the requirements or conditions of the exclusion. The DSL has the authority to hold up to a $5000 reclamation bond on small placer and dredge mines. The DSL may also recover costs over the $5000 limit by filing for the additional amount in district court. Small mining operations which use cyanide are required to obtain an operating permit for only that portion of their operation where cyanide is used. The SMES Cyanide Permit requires the same kind of information as a large mine operating permit, but in less detail. A bond for the full reclamation cost is required by the DSL for that portion of the small miner's permit area where cyanide is used.

Statute: 82-4-301 *et seq.* and 50-72-101 *et seq.*, MCA

Rule: ARM 26.4.101 *et seq.*, and 24.30.1301

Contact: Department of State Lands
Reclamation Division

Department of Labor and Industry
Research, Safety and Training Division
Safety Bureau

2. Application Requirements

An applicant for an operating permit must submit an application for each mine complex. The application consists of three parts: 1) description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife, etc; 2) an operating plan describing the type and size of the operation, equipment, etc; and 3) a reclamation plan, stating the reclamation objectives and how they will be implemented. Once the application is completed, the agency will either approve, deny, or approve the permit with "conditional mitigations or stipulations". If approved, a bond is then calculated based on the applicant's reclamation plan. Once the bond is submitted, the permit is granted. Other permits, not issued by the DSL, may also be required depending on the size and location of the operation.

Statute: 82-4-335 and 338, MCA

Rule: ARM 26.4.107 and 1101-1120

3. Permitting Procedures

A. Once a plan is submitted, the DSL has 30 days to review the application to determine if it is complete, i.e., if there is enough information to begin an environmental review and make an informed permit decision.

B. If incomplete, the applicant is mailed a "deficiency" or "completeness review" letter on or before the 30th day. The letter alerts the applicant to additional information required by the Department. If it is a joint state/federal action (if permits are required by both the DSL and the USFS or BLM), a joint deficiency letter is sent within that 30 day time period and includes comments from both the state and federal agencies. During the application process, the DSL inspects the proposed site. If the site is not accessible due to extended adverse weather conditions, the DSL may extend the 30 day time period by not more than 180 days to allow for inspection of the site. If the DSL determines that additional time is needed to review the application and reclamation plan for a major operation, the department and applicant must negotiate to extend the time period by not more than 365 days.

C. There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DSL

again has 30 days to review the information. This process continues until the application is deemed complete.

D. The operating permit must provide that the reclamation plan may be modified by the board after timely notice and opportunity for hearing.

Statute: 82-4-335 and 337, MCA

4. Fees

The application fee for a hardrock mining permit is $25.

Statute: 82-4-335, MCA

Rule: ARM 26.4.107

5. Criteria

An operating permit may be denied if (1) the plan of development, mining or reclamation conflicts with the Montana Clean Air Act (75-2-101 *et seq.*, MCA, p. 24), the Montana Water Quality Act (75-5-101 *et seq.*, MCA, p. 138), the Public Water Supply Act (75-6-101 *et seq.*, MCA, p. 129), or (2) the reclamation plan is insufficient to accomplish the proposed reclamation.

Statute: 82-4-351, MCA

6. Additional Information

Blasting Rules

(see HARDROCK MINING: EXPLORATION; Blasting Rules, p. 74)

Large Scale Developments

A. When a proposed mining project will employ 75 or more people in any consecutive six-month period in the construction or operation of the mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hardrock Mining Impact Board. The plan must include development timetables,

work-force projections, population immigration projections, projected local government service and facility needs, and costs resulting from the development. The developer must commit to pay any increased development costs to the local government and, if requested, must provide financial or other assistance to local governments to prepare for and evaluate the impact plan.

B. The affected local governments have 90 days in which to submit objections to the impact plan to the Impact Board. The board may grant one 30-day extension to the review period. If objections cannot be resolved, the Impact Board will hold a hearing. Within 60 days after the hearing, the board will issue findings and amend the impact plan as necessary.

C. Impact plan review is conducted concurrently with the Department of State Lands permit review. Within 30 days after receipt of the approved plan, the developer must provide a written guarantee that it will make all payments according to the schedule in the approved plan. Activities under the permit may not commence until the impact plan is approved and the permittee has provided a written guarantee to the DSL and to the Hardrock Mining Impact Board. If the plan requires prepayment of taxes, the developer must also provide a financial guarantee to the board. Under certain circumstances, as specified by statute or the plan itself, the developer or an affected county may petition the board for an amendment to the impact plan.

D. Based on periodic employee reports from mine permittees, DSL must identify permittees that become "large-scale mineral developers" after receiving an operating permit and must notify the permittee, the board and the county in which the mine is located. After providing opportunity for public hearing, the board may require an impact plan or may issue a waiver or conditional waiver for the impact plan request. Compliance with the terms of a conditional waiver becomes a condition of the permittee's operating permit. Upon request of a local government, a waiver may be revoked either by conditions specified by law or in the conditional waiver.

Statute: 90-6-301 *et seq.*, MCA

Rule: ARM 8.104.202 *et seq.*

Contact: Board of County Commissioners

Department of Commerce
Local Government Assistance Division
Hardrock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give his or her approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: Landowner Notification Act; 82-2-301 *et seq.*, MCA

Contact: Surface Owner

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes, and other mine-related purposes. Application is made to the district court.

Statute: 82-2-201 *et seq.*, MCA

Contact: District Court

2. Permitting Procedures

A. If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, he may file a complaint in district court requesting that a right-of-way be created.

B. After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court in not less than 10 days.

C. If the judge determines that the right-of-way is needed, he must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

D. Use of right-of-way can commence only upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. Additional Information

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209 through 82-2-212, MCA

OPENCUT MINING

1. Types of Activities Regulated

Opencut mining applies to bentonite, clay, scoria, phosphate rock, sand or gravel. No mining is allowed unless the miner has entered into a reclamation contract with the Board of Land Commissioners. All opencut sand and gravel operations must comply with applicable zoning regulations if the proposed mine site is in an area zoned as residential. An air quality permit for operation of any mineral crushing plant must also be obtained from the Department of Health and Environmental Sciences, Air Quality Bureau. Exemptions may be available for state and local government agencies, small operations, (less than 10,000 cubic yards removed since 1973) or for federal lands, if the board determines that federal regulations are at least as stringent as state requirements.

The Research, Safety and Training Division of the Department of Labor and Industry enforces mine safety regulations. The Division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

Statute: Opencut Mining Act, 82-4-401 *et seq.*; 50-72-101 *et seq.*, MCA (mine safety); 75-2-204 and 211, MCA, (air quality)

Rule: ARM 26.4.201 *et seq.*, 24.30.1301 and 16.8.1102

Contact: Department of State Lands
Reclamation Division
Opencut Bureau

Department of Labor and Industry
Research, Safety and Training Division
Safety Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. Application Requirements

An operator must submit an application for a reclamation contract to the Department of State Lands on forms approved by the Board of Land Commissioners. Two copies of all submitted materials are required. Also required are a bond of at least $200 for each affected acre, a zoning compliance form, plans of the intended operations and other details of the mine operation. The operator also must submit a reclamation plan to the board before commencing any open cut mining. The board must approve the plan within 30 days, unless the period is extended an additional 30 days.

Statute: 82-4-432, 433 and 434; MCA

Rule: ARM 26.4.203

3. Permitting Procedures

The application form and accompanying materials (contract, bond, map(s) and reclamation plan) are reviewed for completeness to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine the mineability and reclaimability and to make sure site conditions are as specified in the application. (This may be conducted with the applicant and other interested persons.) If additions or changes are necessary, the applicant will be notified within 10 working days. If all is complete, the reclamation contract is signed by the commissioner.

4. Fees

An application fee of $50 is required for an opencut mining contract.

Statute: 82-4-432, MCA

5. Criteria

The Board of Land Commissioners will only enter into a contract with the operator if the bond, reclamation plan and other requirements of Title 82, Chapter 4, Part 4 are fulfilled. The reclamation plan must ensure that the operator will establish vegetative cover commensurate with the proposed land use, will appropriately protect ground and surface water and will remove or bury metal and other waste, among other considerations. (see also WATER, p. 138; and AIR QUALITY PERMITS, p. 24)

Statute: 82-4-432 through 434

Rule: ARM 26.4.204

OPERATIONS ON STATE LANDS: COAL MINING

1. Types of Activities Regulated

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is 10 years and as long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. (See WATER POLLUTION: DISCHARGE PERMITS, p. 138)

Statute: 77-3-301, *et seq.*, MCA

Rule: ARM 26.3.301 *et seq.*

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

2. Application Requirements

All coal leases must comply with the Strip and Underground Mine Siting Act (82-4-101 *et seq.*, MCA, p. 65) and the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, pp. 66-67). Mining operations must be systematic to the extent possible to prevent the waste of coal and to prevent more difficult or costly mining in subsequent operations. All applications for coal leases may be made at any time during the year on a form furnished by the Department of State Lands. An adequate and sufficient description of the lands sought for lease must be included.

Statute: 77-3-306, MCA

Rule: ARM 26.3.306

3. **Permitting Procedures**

A. When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

B. Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

C. Sales of state coal leases are through competitive bidding. The Department of State Lands may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 26.3.306

4. **Fees**

A. A fee of $50 is required for a lease application.

B. Rent is on a per acre basis and cannot be less than $2 per acre.

C. The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 26.2.401 and 26.3.309-310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. Types of Activities Regulated

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems (see HARDROCK MINING: EXPLORATION, p. 72, for definitions) Royalties must be at least five percent of the full market value of the metalliferous minerals renewed under the lease.

Statute: 77-3-101 *et seq.*, MCA

Rule: ARM 26.3.601

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

2. Application Requirements

Application for a mining lease must be made on forms furnished by the Department of State Lands.

Statute: 77-3-111, MCA

Rule: ARM 26.3.605; For uranium and other fissionable materials, see ARM 26.3.501 *et seq.*

3. Permitting Procedures

A. Leases are issued on a first come, first serve basis.

B. When the DSL receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in the official county newspaper of the county where the tract is located.

C. If bids are accepted, the tract will be leased to the highest bidder unless the board determines that the bid is not in the state's best interest.

D. Prior to the leasing of state lands for mining, the DSL must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The department may require the

applicant to pay for this investigation in a sum not to exceed $500.

E. The lease will contain provisions on prospecting and mining, royalty, etc. The board also may require payment of a bond.

Statute: 77-3-111 through 112 and 119 through 121, MCA

Rule: ARM 26.3.603 *et seq.*

4. Fees

The application fee for issuing the metalliferous mineral or gem mining lease is $50. Royalties can not be less than five percent of net and rentals are set by the Board of Land Commissioners. The rental for the first year shall be at least $1.00 per acre and may include an additional amount per acre as a bonus determined by the Board. The rental for the second and third year shall be $1.00 per acre. The rental for the fourth and fifth year shall be $2.50 per acre and the rental thereafter shall be $3.00 per acre. In no case shall the total rental for one lease be less than $100.00 per year.

Rule: ARM 26.2.601 *et seq.*

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (sapphires, rubies and other stones known as "precious" or "semiprecious," but not including stones used in construction work) on state lands must be obtained from the Department of State Lands.

Statute: 77-3-101 *et seq.*, MCA

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

Statute: 77-3-103, MCA

3. Fees

The prospecting permit fee is set by the DSL and approved by the Board of Land Commissioners. Contact the DSL for fee information.

Statute: 77-1-302, MCA

Rule: ARM 26.2.401

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NON-METALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (e.g., stone, limestone, oil shale, clay, bentonite, calcite talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, borite or any other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee shall have a preferential right of renewal of a producing lease under such readjustment of terms and condition as the board may determine to be necessary in the interest of the state. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Department of Highways, the Board of County Commissioners or any local government for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also necessary (see AIR QUALITY PERMITS, p. 24).

Statute: 77-3-201 *et seq.*, 75-2-204, 75-2-211, 82-4-231 and 82-4-336, MCA

Rule: ARM 16.8.1102

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. Application Requirements

Applications must be made on forms supplied by the Department of State Lands.

3. Permitting Procedures

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 85.

4. Fees

The application fee of $15 is required for a nonmetalliferous lease. Upon issuance of the lease, an additional $25 fee is required.

Statute: 77-3-202, MCA

Rule: ARM 26.2.401

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

Any person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

A. Post a written notice at the point of discovery;

B. Within 30 days, mark boundaries of the site;

C. Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Department of State Lands; and

D. File an annual work report with the county.

Statute: 82-2-101 *et seq.*, MCA

Contact: County Clerk and Recorder

U.S. Department of the Interior
Bureau of Land Management
Regional Office

OIL AND GAS

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

Persons planning to engage in geophysical exploration must obtain an exploration permit from the county clerk and recorder.

Statute: 82-1-101, MCA

Contact: Secretary of State

County Clerk and Recorder

Department of Natural Resources and Conservation
Board of Oil and Gas Conservation

2. Application Requirements

A. The applicant must file a notice of intent with the clerk and recorder of each county in which exploration will be conducted. If seismic exploration is planned, a copy on the notice of intent must also be filed with the Board of Oil and Gas Conservation (BOGC).

B. The applicant must also file a surety bond with the Secretary of State for the purpose of indemnifying property owners against damage to property.

C. When notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for the calendar year in which it is issued. The county clerk then notifies the BOGC, which checks whether the applicant is in compliance with all applicable laws and rules.

D. A report must be filed with the county clerk and recorder within three months after any firing of shot points in seismic exploration. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company.

E. Before commencing operations, the person must notify any surface users of the land as to the schedule and, upon request, the location(s) of planned exploration activities.

F. Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101, 103 through 108, MCA

Rule: ARM 36.22.502-504

4. Fees

The fee for a geophysical exploration permit is $5 per calendar year.

Statute: 82-1-105, MCA

OIL AND GAS

1. Types of Activities Regulated

Notices of intention to explore and to drill for oil and gas must be filed with the Board of Oil and Gas Conservation (BOGC), and drilling permits must be obtained. Prior to issuing a permit, the board must conduct an environmental assessment of the proposed drilling operation. Wells must comply with spacing units and be operated in compliance with the board's regulations and established pooling orders. Operators must also comply with the Department of Health and Environmental Science's water pollution regulations; for example, if the proposed operation will discharge fluids into surface waters, a water pollution discharge permit must be obtained (see WATER POLLUTION DISCHARGE PERMITS, p. 138). A public utility may apply to the board for certification of eminent domain power to maintain underground gas storage reservoirs. Waste of oil and gas is prohibited. Wells that inject waters produced with oil and gas into underground strata for purposes of disposal or enhanced recovery must receive a permit from the U.S. Environmental Protection Agency (Underground Injection Control Program) and approval from the BOGC.

Statute: 82-11-101 *et seq.*, 82-10-305, MCA

Rule: ARM 36.22.601 *et seq.*

Contact: Board of Oil and Gas Conservation
Department of Natural Resources and Conservation
Oil and Gas Conservation Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

U.S. Environmental Protection Agency
Helena Office

2. Application Requirements

A. Notice of intention to drill must include information identifying the area where the proposed activity will occur. Logs of the activity must be kept, surface lands restored to their previous grade and productive capability, fresh water supplies protected and wells drilled, cased, operated and plugged in accordance with board rules. The public may have access to records submitted to the board. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

B. After the permit is issued, an oil or gas operator or developer must give advance written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed. This notice must sufficiently disclose the plan of operation, and must be given no more than 90 days and no fewer than 10 days before the commencement of any activity on the land surface. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of State Lands in advance of any operations.

Statute: 82-10-503, 82-11-122 and 123, MCA

Rule: ARM 36.22.601

3. Permitting Procedures

A determination is made regarding whether the location is legal, and the plan of work, including spacing of wells and casing proposals, is reviewed. If the project complies with applicable statutes, rules and regulations, a permit is issued.

Statute: 82-11-115, MCA

4. Fees

Permit fees required for drilling of an oil or gas well are as follows:

A. For each well with an estimated depth of 3,500 feet or less, $25;

B. From 3,501 feet to 7,000 feet, $75;

C. 7,001 feet and deeper, $150.

Statute: 82-11-134, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A seismic exploration permit must be obtained from the Department of State Lands to explore for oil and gas by geophysical methods on state-owned lands where no oil and gas lease is held. An applicant must be qualified to do business in the state, post a surety bond, and provide proof of notification to the surface owner or lessee, the name and address of the exploration firm and the legal description of the area to be explored. A $50 fee must accompany the application, and a charge of $50 per hole or $100 per mile will be assessed. DSL regulations set forth restrictions and requirements relating to surface disturbances, proximity to surface water and structures, fire prevention, operations and plugging and abandonment of shot holes. A permit is good for one year. Reports must be submitted to the DSL within six months after termination of a permit.

Statute: 77-3-402, MCA

Rule: ARM 26.3.204, 205, 217, 223-225 and 230-237

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease any state-owned lands for the purpose of oil and gas exploration or drilling and development. Corporations not

incorporated in Montana must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 26.3.205

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

2. **Permitting Procedures**

A. A person wishing to lease state lands for oil and gas operations must submit an application for a lease on forms furnished by the DSL.

B. Sale of oil and gas leases are normally held once each quarter (March, June, September, December). The sale of each lease takes place through competitive oral bidding.

C. Notice of each sale is published in the *Montana Oil Journal* or in one of the state's general circulation publications.

D. The primary term of an oil and gas lease may be for no more than 10 years and no less than five years unless the board deems that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

E. Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The board may approve assignment of oil and gas leases to qualified assignees.

F. The owner or operator of an oil or gas well on state-owned land must notify the DSL in advance of any operations.

Statute: 77-3-404, 405, 421, 429, 430 and 438; MCA

Rule: ARM 26.3.206 and 207

3. Fees

The fee required for an oil and gas lease application is $15 and $25 for a lease issuance fee. Rentals are $1.50 per acre but not less than $100 per year. Delay drilling penalty in addition to the rental is $1.25 per acre in year 6 of the lease and $2.50 per acre in years 7 through 10 of the lease. Royalties are 12.5 percent on gas and 13 percent on oil.

Rule: ARM 26.3.206, 209 and 211

OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS

1. Types of Activities Regulated

The governing body of any city, county or local school district may lease its property for oil and gas development. The term of the lease may not exceed 10 years, and royalties must be at least 12.5 percent.

Statute: 82-10-201 through 204, MCA

Contact: Local Governing Body

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas.

Statute: 77-3-501 *et seq.*, MCA

Contact: Department of State Lands
Land Administration Division
Minerals Management Bureau

2. Permitting Procedures

A. The board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

B. Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land, the entry of water into storage formation, or injury to oil or gas deposits.

PARKS AND RECREATION

BOATS

1. Types of Activities Regulated

All owners of motorboats -- and sailboats 12 feet long or longer -- must obtain a certificate of ownership (title) and a certificate of number (identifying the boat's registration, decal, hull, and title numbers) prior to operating the boat in state waters. Out-of-state boats used in Montana for more than 90 consecutive days must be registered at the county treasurer's office in the county where the boat will be used most often.

Statute: 23-2-508 *et seq.*, MCA

Contact: County Treasurer

Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Permitting Procedures

An application for a certificate of ownership must be made at the county treasurer's office on forms provided by Department of Justice. Once received, the certificate of ownership is valid as long as the person holding it owns the vessel. An application for a certificate of number (registration decal) is also made at the county treasurer's office and expires December 31 of each calendar year. Certificates of number must be renewed annually.

Statute: 23-2-811(2) and 817(2), MCA

3. Fees

The certificate of ownership fee (a one-time fee until ownership changes) is $6. The annual boat registration and decal fee is $2.50 until July 1, 1993, and $2 thereafter. A fee in lieu of property tax also is required, based on the vessel's length and/or age, for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons.

Statute: 23-2-508(8), 512, 516, 517; and 15-16-202, MCA

3. **Additional Information**

A. Boat Racing

Written permission from the Department of Fish, Wildlife and Parks is required for any person who plans to conduct a boating race, regatta, or other marine event on Montana's waters. Letters of application should be sent to the department at least 30 days before the scheduled event.

Contact: Department of Fish, Wildlife and Parks
Boating Law Enforcement

B. Noise Restrictions

Motorboats or personal watercraft that emit noise greater than 86 dbA when measured at a distance of 50 feet or emit exhaust noise in excess of 90 dbA when measured at a distance of 1 meter from the muffler at idle speed are considered a public nuisance and constitute disorderly conduct. Noise standards for certain lakes are more restrictive because of population density and heavy recreational use. Motorboats or personal watercraft operated on Flathead Lake, Echo Lake, or Swan Lake may not operate in proximity to the shoreline if the noise level is greater than 75 dbA measured at the shoreline.

Statute: 23-2-521(3), 523(9) and 526(3); MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS

1. **Types of Activities Regulated**

Licenses from the Department of Health and Environmental Sciences are required for operating campgrounds, trailer courts and work camps and validation must be obtained from the local health officer. Acceptable plans must be submitted to the DHES and the health officer. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. (see SUBDIVISIONS, p. 117; and PUBLIC WATER SUPPLY, p. 129).

Statute: 50-52-101 *et seq.*, MCA

Rule: ARM 16.10.703; Trailer Courts and Tourist Campgrounds

ARM 16.10.905; Work Camps

Contact: Local Board of Health

Local City-County
Environmental Health Department

Department of Health and Environmental Sciences
Environmental Sciences Division
Food and Consumer Safety Bureau

2. Application Requirements

Application for a license to operate a tourist campground, trailer court or camp must be made to the DHES on appropriate forms. All applicants must prepare and submit scaled layout plans of proposed facilities to the DHES and the local health authority for approval prior to beginning construction. Licenses expire on December 31 of the year issued.

Statute: 50-52-201 and 203, MCA

3. Permitting Procedures

A. The local health officer must validate the license within 15 days after issuance by the DHES. Failure to do so results in a denial of the license.

B. A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-52-208 and 209, MCA

4. Fees

Beginning January 1, 1992, the fee for an annual license is $40. A late fee penalty of $25 may be assessed for failure to renew a license prior to its expiration date.

Statute: 50-52-202, MCA

OFF-HIGHWAY VEHICLES

1. Types of Activities Regulated

No off-highway vehicle may be operated on public lands, trails, easements, lakes, rivers or streams unless a certificate of ownership and a registration decal have first been obtained from the county treasurer's office.

Statute: 23-2-801 *et seq.*

Contact: County Treasurer

Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Permitting Procedures

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Once received, the certificate of ownership is valid as long as the person holding it owns the vehicle. Registration decals expire on December 31 of the year of issuance and must be renewed annually.

Statute: 23-2-811(2) and 817(2), MCA

3. Fees

The one-time fee for a certificate of ownership is $4; the annual registration fee is $2, the annual decal fee is $5; and the fee in lieu of tax is $19 for vehicles less than 3 years old and $9 for all others.

Statute: 23-2-803, 804(3), 811(7), and 817; MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

SNOWMOBILES

1. Types of Activities Regulated

Before operating a snowmobile on public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of ownership and registration decal which must be displayed in a conspicuous place on the cowl of the vehicle.

Statute: 23-2-601 *et seq.*, MCA

Contact: County Treasurer

Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Permitting Procedures

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Registration decals expire on June 30 of the year of issuance and must be renewed annually.

Non-resident temporary use permits are available from the Department of Fish, Wildlife and Parks and are valid for a consecutive 30 day period. Applications for a temporary use permit are made at locations and on forms prescribed by the DFWP, Law Enforcement Division.

Statute: 23-2-611 and 616, MCA

3. Fees

The application fee for a certificate of ownership is $5 and for the registration decal, $2.50. The annual fee in lieu of property tax is $22 for vehicles less than four years old and $15 for all others. Proof of payment of registration decal fees and the annual fee in lieu of property tax is required to obtain registration decals. The non-resident temporary use permit fee is $6.

Statute: 23-2-611(7), 23-2-615 through 616, MCA

4. Additional Information

A. Exemptions

Certification and registration requirements do not apply to snowmobiles owned or operated by the U.S. or another state or to snowmobiles registered in another state or country and temporarily used within Montana pursuant to a temporary use permit (valid for 30 days or less) issued by the Department of Fish, Wildlife and Parks.

Statute: 23-2-614, MCA

B. Noise Restrictions

Snowmobiles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

1) 82 dB(A) for machines manufactured after June 30, 1972, but prior to June 30, 1975, and

2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or to such events held on public lands provided consent from the appropriate government unit is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

STATE PARKS

1. Types of Activities Regulated

Permits are required for day-use or overnight camping in most state parks. In addition, the DFWP regulates certain park activities, for example, the number of vehicles per camp-site and the areas where campfires may be burned.

2. Fees

Permit fees vary by area and are paid at the park entrance. Annual park passports are available from the DFWP.

SOLID WASTE - HAZARDOUS WASTE

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes or demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures. All hazardous wastes may only be transmitted, stored, treated or disposed of in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled. A permit from the Department of Health and Environmental Sciences is required to construct or operate a hazardous waste management facility. Persons who transport hazardous wastes are required to notify the DHES and to obtain an identification number. Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number. Substances regulated by the Department of State Lands under the Strip and Underground Mine Reclamation Act (see p. 66) are exempt.

Statute: Montana Hazardous Waste and Underground Storage Tank Act, 75-10-401 *et seq.*, MCA

Rule: ARM 16.44.101 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

2. Application Requirements

Any person who wishes to construct or operate a hazardous waste management facility must apply to the DHES for a permit on forms provided by the department. An application must contain, at a minimum, the applicant's name and business address, the location of the proposed facility, a plan of operation and maintenance, and a description of pertinent site characteristics. A permit may be issued for a period specified by the DHES, and is subject to either renewal or revocation depending on compliance with the permit's provisions. The DHES may assess fees for reviewing a permit application or for modifying or reissuing permits.

104 SOLID WASTE - HAZARDOUS WASTE

Statute: 75-10-405 and 406, MCA

Rule: ARM 16.44.105 and 106

3. **Permitting Procedures**

A. The DHES may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit. Such emergency permits may be oral or written, may not exceed 90 days in duration and may be terminated by the DHES at any time prior to 90 days.

B. The DHES may grant permits to hazardous waste management facilities if the owner or operator already holds a license or permit from the DHES pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.

C. An environmental assessment (EA) is required during the review process for a hazardous waste management facility. If indicated by the EA, an environmental impact statement may be required prior to a final decision on the permit. (See MONTANA ENVIRONMENTAL POLICY ACT, p. 147)

D. If it is determined that an application for a certificate under the Montana Major Facility Siting Act (Title 75, Chapter 20) will result in the generation, transportation, storage or disposal of hazardous wastes, the DHES must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the Montana Major Facility Siting Act. A decision to grant or deny a permit for the treatment, storage or disposal of hazardous wastes is appealable concurrently with and subject to the same procedures established for the appeal of the DHES's air and water quality certification decision under the Montana Major Facility Siting Act. (See MAJOR FACILITY SITING, p. 35)

Statute: 75-10-406 and 407, MCA

4. Additional Information

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including a manifest system for tracking the movement of all hazardous wastes. Transporters who plan to construct and operate a commercial hazardous waste transfer facility must conduct a public hearing in the nearest community to provide information and respond to questions on the proposed facility. A transfer facility must also comply with regulations established by the DHES.

Rule: ARM 16.44.401 *et seq.*, 16.44.501 *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Health and Environmental Sciences for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste and Underground Storage Tank Act or any rule adopted under it. The board may grant a variance or partial variance if it finds that (1) the applicant's actions or proposed actions regarding generation, transportation, treatment, storage or disposal of hazardous wastes do not constitute a danger to public health or safety or cause substantially adverse environmental effects and (2) the application of or compliance with the requirement or rule would produce unreasonable hardship to the applicant without equal or greater benefits to the public.

Statute: 75-10-408, MCA

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license from the Department of Health and Environmental Sciences is required to operate a motor vehicle wrecking facility with four or more vehicles. Possession at a single location of four or more junk vehicles is prima facie evidence that the possessor is operating a motor vehicle wrecking facility.

106 SOLID WASTE - HAZARDOUS WASTE

Statute: 75-10-502 and 511, MCA

Rule: ARM 16.14.201

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

2. **Application Requirements**

An application for a license to operate or maintain a motor vehicle wrecking facility or a local junk vehicle program can be obtained from the DHES, and must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances (see ZONING, p. 23). Such facilities must be properly shielded from view. The license expires on December 31 of the year issued. A motor vehicle wrecking facility must keep a record of every junk vehicle obtained, and must mail a quarterly report to Department of Justice, Motor Vehicle Division with the required information.

Statute: 75-10-504, 511 through 513, MCA

Rule: ARM 16.14.201 and 202

Contact: Department of Justice
Motor Vehicle Division
Registrar's Bureau

3. **Permitting Procedures**

A. The DHES may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

B. The DHES's decision to deny, suspend or revoke a license may be appealed to the Board of Health and Environmental Sciences within 30 days of the decision.

Statute: 75-10-511, 514 and 515, MCA

Rule: ARM 16.14.201 and 204

4. **Fees**

The DHES requires an annual fee of $50 for a wrecking facility license.

Statute: 75-10-511 and 513, MCA

RADIOACTIVE WASTE DISPOSAL

1. **Types of Activities Regulated**

Disposal of "large quantity" radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes, and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, medical, etc.) are exempt from this prohibition.

Statute: Montana Nuclear Regulation Act, 75-3-101 and 302, MCA

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

ROADSIDE JUNKYARDS

1. **Types of Activities Regulated**

The Department of Transportation licenses junkyards located within 1,000 feet of an interstate or primary highway right-of-way.

Statute: 75-15-211 through 223, MCA

Rule: ARM 18.6.101 *et seq.*

Contact: Department of Transportation
Engineering Division
Right-of-Way Bureau

2. Criteria

No license may be granted for a junkyard within 1000 feet of the right-of-way of an interstate or federal primary highway unless it is adequately screened from view from the road way or is located in an area zoned for industrial use, or in an unzoned industrial area.

Statute: 75-15-215, MCA

Rule: ARM 18.6.103

3. Fees

The fee for a junkyard license is $25 per year.

Rule: ARM 18.6.131

SOLID WASTE DISPOSAL (NON-HAZARDOUS)

1. Types of Activities Regulated

A license is required from the Department of Health and Environmental Sciences, Solid and Hazardous Waste Bureau for the disposal of solid waste and for the operation of a solid waste management system. [Excluded from this licensing requirement are the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations.] Sites are approved and licensed by the DHES and validated by local health officials. "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. It does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated by the Department of State Lands, slash and forest debris regulated by the Department of State Lands or marketable wood byproducts.

Megalandfills (defined as landfills that receive more than 200,000 tons of solid wastes per year or monofills that receive more than 35,000 tons of either fly ash or bottom ash per year) are subject to additional siting and licensing controls. The Board of Health and Environmental Sciences must issue a certificate of site suitability before a megalandfill may be constructed. Social, environmental and economic impacts of

the proposed landfill must be considered in the review process. The DHES's licensing process and the BHES's certification process must proceed concurrently and in a coordinated fashion.

Statute: Solid Waste Management Act, 75-10-201 *et seq.*, MCA

Rule: ARM 16.14.501 *et seq.*

Contact: Local Health Officer

Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

2. Application Requirements

A person who wishes to apply for a license to conduct solid waste disposal or to operate a solid waste management system must submit an application for the license to the DHES on forms furnished by the department. The application must include the applicant's name and business address, location of the proposed facility, plan of operation and other information as requested.

Statute: 75-10-221(3), MCA

Rule: ARM 16.14.508, 509

3. Permitting Procedures

A. Time Requirements: The DHES will notify the applicant if additional information is required. If the additional information is not received within 90 days, the application must be resubmitted. The DHES must notify the local health officer within 15 days of receipt of the completed application.

B. An environmental assessment (EA) is conducted during the solid waste application review process. If indicated by the EA, an environmental impact statement (EIS) may be required.

C. Public Notification, Hearings, Appeal of Denial

1) The DHES must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

2) Publication of the proposed decision is required in local newspapers.

3) The public has 30 days to submit written comments.

4) The DHES notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

5) If either the DHES or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 16.14.511, 514

4. Fees

The department charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee to cover the costs of annual renewals and inspections. Disposal facilities pay an annual per-ton fee on wastes received by the facility. Currently (1991), this disposal fee is set at 31 cents per ton. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DHES's solid waste program.

Statute: 75-10-115, MCA

5. Additional Information

A. Variances

Any person may apply to the Board of Health and Environmental Sciences for a variance from the rules issued pursuant to the Solid Waste Management Act. The board may grant a variance if it finds that (1) failure to comply with the rules does not result in a danger to public health or safety, or (2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 16.14.602-608

B. Cesspools, Septic Tanks and Privies

Persons engaged in the business of cleaning cesspools, septic tanks, or privies and the disposal of septage therefrom must be licensed by the Department of Health and Environmental Sciences, Food and Consumer Safety Bureau. An exclusion is made for the owner or lessee of a property disposing of septage on his or her own land as long as it does not create a nuisance or a public health hazard (see SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 131).

Statute: 37-41-101, 105; MCA

Rule: ARM 16.14.808

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Food and Consumer Safety Bureau

UNDERGROUND STORAGE TANKS

1. Types of Activities Regulated

All owners and operators of underground storage tanks (UST's) must file notice of the existence of each of their tanks with the Department of Health and Environmental Sciences, Solid and Hazardous Waste Bureau. The UST's must also be registered annually with the department, and the appropriate fees paid. Permits are required from the DHES for tank or piping installations, modifications, repairs or closures. In addition, tank operations must comply with State Fire Codes. (See also TANK INSTALLERS AND INSPECTORS, p. 115).

Statute: Montana Hazardous Waste and Underground Storage Tank Act; 75-10-401 *et seq.*, MCA

42 U.S.C. 6901-6987, Federal Resource and Conservation Recovery Act

Rule: ARM 16.45.101A *et seq.*, 16.45.1214

112 SOLID WASTE - HAZARDOUS WASTE

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau
Underground Storage Tank Section

State Fire Marshall

2. Application Requirements

Permit applications for tank or piping installations, modifications or closures must be submitted at least 30 days prior to the beginning of these operations. In the event of an emergency requiring immediate UST system work, the DHES may issue an emergency permit.

Rule: ARM 16.45.1214 and 16.45.1217

TANK OWNERS AND OPERATORS

The state regulates both large (1,100 gallons or more) and small (less than 1,100 gallons) underground storage tanks. Large capacity tanks are regulated according to U.S. Environmental Protection Agency standards. The smaller capacity tanks are regulated less stringently to make it easier for small farm, residential and heating oil tank owners to comply.

A. Tanks With 1,100 Gallons or Greater Capacity

1) Tank installation and operating requirements:

Several requirements must be met when installing a UST with 1,100 gallons or greater capacity. A permit is required from the department prior to installation. The UST must either be installed by a licensed installer, or if the operation is conducted by the owner or operator, then the work must be inspected by a licensed inspector. The owner must certify that the tank and piping are properly installed according to industry codes, that the tank and piping are protected from corrosion, that the system is equipped with leak detection and monitoring equipment that will detect a leak within a thirty day period, and that the tank is equipped with devices that prevent spills and overfills. Any inspector, installer, owner or operator must notify the department of a suspected or actual leak within 24 hours of discovery. The owner or operator must submit proof of financial responsibility guaranteeing that

cleanup costs can be paid should a tank leak occur. (See Additional Information: PETROLEUM TANK RELEASE CLEANUP FUND, p. 114).

2) Tank Closure:

The DHES must be notified at least 30 days prior to the removal of an underground storage tank and a permit is required prior to initiating the procedure. The system must either be removed by a licensed UST remover, or if the operation is conducted by the owner or operator, then the work must be inspected by a licensed inspector. An environmental site assessment must be conducted which includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal.

Rule: ARM 16.45.701-705 and 16.45.1201

B. Tanks With Less than 1,100 Gallons Capacity

1) Types of tanks regulated:

The regulations for this category of UST's apply to the following systems with a capacity of less than 1,100 gallons: farm and residential tanks used for the storage of motor fuels for noncommercial purposes; heating oil tanks for consumptive use on the premises where stored; and, underground lines connected to aboveground storage tanks.

2) Installation and operating requirements:

Owners of these classes of small noncommercial tanks are required to install properly designed corrosion protected tanks and piping, conduct a yearly leak detection test of their tank, maintain a record of the last test, and file notification of any suspected or actual leak with the department within 24 hours of discovery.

3) Tank Closure:

The DHES must be notified at least 30 days prior to the closure of an underground storage tank and a permit is required prior to initiating the procedure. The system must either be removed by a licensed UST remover, or if the operation is conducted by the owner or operator, then the work must be inspected by a licensed inspector. An environmental site assessment must be conducted which includes the collection and analysis of soil samples to evaluate the condition of the site after tank

closure or removal.

Rule: ARM 16.45.701-705

3. Fees

The annual registration fee for a tank of 1,100 gallons or greater capacity is $50, and for farm, residential and heating oil tanks with a capacity of less than 1,100 gallons, $20.

A permit application review fee for farm, residential and heating oil tanks with a capacity of 1,100 gallons or less is $35. The review fee for all other underground storage tanks is $50 plus $.005 per gallon of tank capacity. The permit review fee for piping work only is $25 per 50 feet, (with a minimum fee of $25 and a maximum fee of $100). The permit review fee for only modifications and repairs is $35. The maximum permit application review fee for installations, closures, or both at one facility or location is $500 per permit.

If the UST owner chooses to conduct his or her own work without a licensed installer or remover, the work must be inspected by a licensed inspector and an inspection fee is charged.

Rule: ARM 16.45.1001 and 16.45.1219-20

4. Variances

Any person may apply for a variance from any requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DHES.

Rule: ARM 16.45.105

5. Additional Information

Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Owners and operators are eligible for reimbursement for eligible costs if:

1) the release was discovered on or after April 13, 1989;

2) the department is notified of the release in the manner and within the time provided by law or rule;

3) the department has been notified of the existence of the tank in the manner required by the department rule or has waived the requirement for notification;

4) the release was accidental; and

5) with the exception of the release, the operation and management of the tank complied with applicable federal laws and rules when the release occurred and remained in compliance following detection of the release.

If money is available in the fund, and if the owner or operator is eligible, the fund pays 50% of the first $35,000 of eligible costs and 100% of subsequent eligible costs with a maximum reimbursement of $982,500 for tanks of 1,100 gallons capacity or more. The fund reimburses an owner or operator 50% of the first $10,000 of eligible costs and 100% of subsequent eligible costs with a maximum reimbursement of $495,000 for a tank storing heating oil for use on the premises where it is stored, or a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes.

Statute: 75-11-301 through 313, MCA

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

Those who install or close underground storage tanks in exchange for something of value or as a business must have a valid installers license issued by the Department of Health and Environmental Sciences, Solid and Hazardous Waste Bureau. Any person inspecting UST systems must also be licensed by the department.

Statute: Montana Underground Storage Tank Installer Licensing and Permitting Act; 75-11-201 *et seq.*, MCA

Rule: ARM 16.45.1201 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division

Solid and Hazardous Waste Bureau
Underground Storage Tank Section

2. **Application Requirements**

All applicants for an installers license must be at least 18 years of age, submit a license application on a form provided by the DHES, meet the requirements determined by the department, pass the licensing examination, and pay the required fee.

Statute: 75-11-210, MCA

Rule: ARM 16.45.1204-1210

3. **Fees**

The installer's license application and examination fee is $50 and the annual renewal fee is $25.

Rule: ARM 16.45.1211

SUBDIVISIONS

SALE OF SUBDIVIDED LAND

1. Types of Activities Regulated

Subdivisions of five or more parcels, of which one parcel is less than five acres in size, that are to be offered for sale outside of Montana, must be registered with the Board of Realty Regulation. A notice of intention must be filed and annual reports are required. In addition, if the subdivision involves 50 or more lots, not all of which are five or more acres, the developer must register the subdivision with the U.S. Department of Housing and Urban Development.

Statute: 76-4-1101 *et seq.*, MCA
Interstate Land Sales Act, 15 USC 1701 *et seq.*

Rule: ARM 40.56.410

Contact: Department of Commerce
Professional and Occupational Licensing Bureau
Board of Realty Regulation

U.S. Department of Housing and Urban Development
Office of Interstate Land Sales

2. Application Requirements

A. Prior to the time when subdivided lands are to be offered for sale or lease outside Montana, the owner, his or her agent, or the subdivider must notify the board in writing of his or her intention to sell or lease. The notice of intention must contain the following information:

1) the name and address of the owner;

2) the name and address of the subdivider;

3) the legal description and area of lands, together with a map showing the layout proposed and relation to existing streets or roads;

4) a true statement of the conditions of the title to the land, particularly including all encumbrances thereon;

5) a true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any and all forms of conveyance intended to be used;

6) a true statement of the provision for legal access, sewage disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities;

7) copies of any advertising, information, promotion brochures or similar material depicting the property that might cause or tend to induce purchase of the property or an interest therein; and

8) other information as the owner, his or her agent, or the subdivider may desire to submit.

B. The board may investigate any subdivision being offered for sale or lease.

C. It is unlawful for any person to incorporate in any advertising material or use for any advertising purposes the board's results or findings.

Statute: 76-4-1104, 1109 and 1114, MCA

3. Fees

A. A filing fee of $50 is required to file a notice of intention.

B. If the Board of Realty Regulation requires additional information on the proposed sale, the corresponding questionnaire requires a filing fee of $100.

Statute: 76-4-1105 and 1107, MCA

SANITATION IN SUBDIVISIONS

1. Types of Activities Regulated

Condominiums, mobile home parks, recreational vehicle parks and all divisions of land which create a parcel of less than 20 acres are subject to sanitary review. A subdivision plat cannot be filed with the county clerk, nor can structures be built or occupied until sanitary restrictions relating to water supply, sewage and solid waste disposal are lifted by the Department of Health and Environmental Sciences. Review of minor subdivisions of five or fewer parcels can be delegated to local officials. Subdivisions within master planning areas and for which municipal water and waste disposal services will be provided are not subject to sanitary restrictions.

Statute: Sanitation in Subdivisions Act, 76-4-101 *et seq.*, MCA

Rule: ARM 16.16.101 *et seq.*; local regulations

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Local government

2. Application Requirements

An applicant who wishes to subdivide land must either complete the joint subdivision application form (generally for major subdivisions) for review by local and Department of Health officials or submit an ES91S application form for minor subdivisions which may be exempt from local planning review. A preliminary plat or final plat, maps showing proposed public water and sewage systems, an environmental assessment, and a subdivision approval statement from the local health officer are also required.

Statute: 76-3-504, 603, 76-4-104 and 125, MCA

Rule: ARM 16.16.102-104

3. Permitting Procedures

A. Upon receipt of a subdivision application, the Department of Health and Environmental Sciences has 60 days for final action. If an environmental impact statement is required, final action must be taken within 120 days. (See MONTANA ENVIRONMENTAL POLICY ACT, p. 147)

B. The DHES may enter into agreements with local governments regarding review of water supply, sewage and solid waste disposal facilities for subdivisions of five or fewer parcels. Local government officials have 50 days to recommend action on the application to the DHES. The DHES then has 10 days to take final action.

Rule: ARM 16.16.105 and 108

4. Criteria

The DHES's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be adequate water supply, drainage, sewage and solid waste disposal systems. The DHES will issue a certificate of approval when it is satisfied that water pollution will not occur, the water supply is of adequate quantity and acceptable quality and solid waste disposal is in accordance with state laws and regulations.

Rule: ARM 16.16.302 *et seq.*

5. Fees

A schedule of fees, depending on the complexity of the project, is set out in the rules. Contact the DHES for fee limits.

Statute: 76-4-105, MCA

Rule: ARM 16.16.801 *et seq.*

6. Additional Information

If there is a denial of approval of subdivision plans and specifications which relate to environmental health facilities, the aggrieved developer may request a hearing before the board of the reviewing authority.

Statute: 76-4-126, MCA

SUBDIVISION AND PLATTING ACT

1. Types of Activities Regulated

   A. All divisions of land that create a parcel less than 20 acres in size must be surveyed and platted in accordance with the Montana Subdivision and Platting Act, and rules adopted pursuant to the act.

   B. Exemptions - Subdivision review requirements and surveying and filing requirements do not apply to divisions resulting from court orders; mortgages; severance of oil, gas or water interests from surface ownership; creation of cemetery lots; reservation of a life estate; or lease or rental for farming and agricultural purposes. The following parcels must be surveyed and filed as a certificate of survey, but are not subject to subdivision review: divisions resulting from relocation of common boundaries; gifts or sales to immediate family members; sales which include a covenant running with the land that provides exclusively for agricultural use of the land; and "occasional sales" of singly divided parcels outside of platted subdivisions.

   No transfer of title may be filed until a certificate of survey or subdivision plat is filed with the county clerk and recorder and duly referenced on the document of transfer. Condominiums and subdivisions for rent or lease must be reviewed but are not required to be surveyed and filed.

   C. Evasion Criteria - The legal interpretation of the exemptions, mentioned above, is complex. Many binding legal opinions have been rendered regarding the proper use of the exemptions. Also, the Attorney General and the courts have allowed local government "evasion criteria". Evasion criteria may be adopted by a local government as a method to ensure that each proposed exemption does not represent an intent to evade the subdivision laws. The law on evasion criteria is not always explicit and continues to evolve. Questions concerning exemptions and evasion criteria should be directed to the local government jurisdiction.

Statute: 76-3-101 *et seq.*, MCA

Rule: ARM 8.94.3001 *et seq.*

Contact: Local Government
Clerk and Recorder
Planning Department
Health Department
Local Planning Board

Department of Commerce
Local Government Assistance Division
Community Development Bureau

2. Permitting Procedures

A. General Information The procedure varies slightly, depending upon the size of the proposal and whether or not the local government has a planning board. For those with boards, the review may be two-tiered - the initial review is by the planning board, which acts as an advisory body, with the final decision made by the governing body. For those without boards, the governing body is the single reviewing entity. In most jurisdictions, a "subdivision administrator" (planner or sanitarian) will be the developer's initial contact person and liaison.

B. The developer submits his or her preliminary plat to the appropriate local entity (planning board or government). If a planned unit development is contemplated, the developer must propose a Planned Unit Development designation for the project and receive approval from the local government before submitting a preliminary plat.

C. An environmental assessment prepared by the developer must accompany the preliminary plat for major subdivisions. The assessment must contain a description of hydrology, topography, vegetation, wildlife, and soils within the proposed subdivision and a community impact report describing the demands the development will make on local services (fire, police, roads, etc.). The assessment does not apply to minor subdivisions (five or fewer parcels in which no land is dedicated to the public for parks or playgrounds), and may be waived under certain other circumstances.

D. The government, after notice and a public hearing, makes its final decision within 60 days of receipt of the preliminary plat (35 days for minor subdivisions), unless an extension is agreed to by the developer.

E. In general, the developer must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of parkland.

F. The preliminary plat may be approved for one to three years. The government may require a bond to guarantee completion of improvements which are not proposed to be installed prior to final plat approval.

G. The final plat will be approved by the governing body if it conforms with the conditions imposed on the preliminary plat. A final plat may not be filed with the county clerk until the State Department of Health has lifted all sanitary restrictions. (See SANITATION IN SUBDIVISIONS, p. 119)

Statute: 76-3-603, 604, 606, 610 and 611; MCA

3. Criteria

The basis for the government's decision is whether the subdivision would be in the public interest. This determination must be made by issuing findings of fact that consider the need for the project, public opinion, the subdivision's effect on agriculture, local services, taxation, the natural environment, wildlife, and public health and safety. The government may require the subdivision to comply with its master plan, if one has been adopted. In addition, the developer must comply with the local government's design and construction standards (road widths, easement location, utility standards, etc.).

Statute: 76-3-608, MCA

4. Additional Information

Expedited review is available in certain situations. Summary review (minor subdivision review) may be used if the subdivision contains five or fewer lots, there is proper access to all lots and no park has been dedicated. If the subdivision complies with a master plan, capital improvements plan and zoning the subdivision is deemed to be in the public interest and is exempt from the environmental assessment requirement.

UTILITIES

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, water and sewage are authorized to occupy highway rights-of-way if they conform to certain standards as approved by the Montana Department of Transportation (MDOT), (see also HIGHWAY ENCROACHMENTS - EASEMENTS, p. 49). All other facilities are considered privately owned and must receive a permit from the MDOT before being constructed in a highway right-of-way. City councils and boards of county commissioners grant similar approval along city streets and county roads, respectively.

Statute: 7-13-2101 and 4101, MCA

Rule: ARM 18.7.201 *et seq.*, 18.7.221-241

Contact: City or Town Council

Board of County Commissioners

Department of Transportation
Area Maintenance Bureau

2. Permitting Procedures

A. The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the Department of Transportation. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities with respect to the highway.

B. The supervisor or chief will review the occupancy as proposed by the utility. If the proposal conforms with certain standards, as specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal does not comply. Standards include preserving the natural environment to the greatest extent possible and maintaining the facility and avoiding hazards or conflicts between the highway and the facility.

C. The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

IMPROVEMENT AND UTILITY DISTRICTS

1. Types of Activities Regulated

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be in charge. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should check with local authorities to determine applicable requirements.

Statute: Special Improvement Districts:
7-12-2101 *et seq.*, MCA
Rural Improvement Districts:
7-12-4101 *et seq.*, MCA
Lighting Districts:
7-12-2201 *et seq.*, 7-12-4301 *et seq.*, MCA
Street Parking:
7-12-4501 *et seq.*, MCA
Metropolitan Sanitary and Sewer Districts:
7-13-101 *et seq.*, MCA
County Water/Sewer Districts:
7-13-2201 *et seq.*, MCA
Public Sewer Systems:
7-13-4201 *et seq.*, MCA
Municipal Sewage/Water Systems:
7-13-4301 *et seq.*, MCA
Municipal Revenue Bonds:
7-7-4401 *et seq.*, MCA
Industrial Revenue Bonds:
90-5-101 *et seq.*, MCA

MAJOR FACILITY SITING

1. Types of Activities Regulated

Certification by the Board of Natural Resources and Conservation and the Department or Board of Health and Environmental Sciences is required for construction of major utilities (power generation plants, transmission lines, pipelines, etc.). For details and agency contacts, see p. 35.

Statute: 75-20-101 *et seq.*, MCA

Rule: ARM 36.7.1201 *et seq.*

OVERHEAD LINES

1. Types of Activities Regulated

The city or town council may regulate erection of poles and cables within city limits. The owner of agricultural lands may petition the district court for permission to relocate overhead lines for the purpose of installing an agricultural improvement. Persons moving buildings, equipment or other structures which will require the moving of overhead lines must give the person responsible for operating the lines 10 days notice or must pay half the reasonable cost of raising or cutting the wires or of moving the poles.

Statute: 69-4-401 *et seq.*, 69-4-601, 602 and 7-13-4106, MCA

Contact: City or Town Council
Operators of lines

PIPELINES - MAINS - UTILITY LINES

1. Types of Activities Regulated

The right to construct and operate pipelines for the transportation of crude petroleum, coal or the products thereof may be obtained by filing with the Public Service Commission a written agreement to become a common carrier and subject to all of the attendant duties and obligations. Construction of gas, water and other mains within city limits is regulated and approved by the city or town council. Boards of county

commissioners have similar authority outside of municipalities. City or town councils may permit extension of utility lines outside of city limits. All plans for construction or extension of water or sewer lines must be approved by the Department of Health and Environmental Sciences (see SEWER SYSTEMS, p. 132 and PUBLIC WATER SUPPLY, p. 129).

Statute: 69-13-103, 7-13-2101, 4101, 4311-4312 and 7-3-4452, MCA

Rule: ARM 16.20.201 *et seq.* and 16.20.401 *et seq.*

Contact: City or Town Council or
Board of County Commissioners

Department of Public Service Regulation
Utilities Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

UTILITY REGULATION

The Public Service Commission has general authority over public utilities (i.e., organizations which provide heat, street or railway service, light, power, water, telegraph or telephone service to the public). The PSC regulates rates and services and issues certificates of public convenience and necessity to motor carriers.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district are excluded from PSC jurisdiction. However, if a local government utility is a public utility, its operation is subject to PSC regulation. Rates and services for such systems are determined by the local government or district.

Statute: 69-3-101 *et seq.*, 69-7-101 and 69-12-201, MCA

Rule: ARM 38.1.101, 38.5.701 and 702

Contact: Department of Public Service Regulation
Utilities Division

Municipal government
City or City-County water or sewer district

WATER

If the project requires water use, a water supply, or discharge of wastes into state waters, the following regulations may apply. (See also, IMPROVEMENT AND UTILITY DISTRICTS, p. 124)

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams. The Army Corps of Engineers should also be contacted for proposed dams on navigable or non-navigable waters. If the proposed dam facility will be on a stream located on state-owned lands, a lease or license must be obtained from the Board of Land Commissioners.

A person desiring to build a dam may need to contact the DNRC to acquire the necessary water permit or change authorization.

A dam owner must also obtain a dam safety construction permit from the DNRC prior to constructing any new high-hazard dam or reservoir that impounds at least 50 acre-feet, enlarges or removes an existing high-hazard dam or reservoir impounding at least 50 acre-feet, or extensively repairs or alters an existing high hazard dam or reservoir impounding 50 acre-feet or more. In addition, a dam safety operating permit needs to be obtained before operating a new high-hazard dam and, after October 1, 1990, before operating an existing high-hazard dam. Upon complaint, the Montana Department of Natural Resources and Conservation inspects and approves any dam on state waters.

Statute: Federal Power Act, 16 USC 791a *et seq.*
River and Harbors Act, 33 USC 401 *et seq.*
Montana Dam Safety Act, 85-15-101 *et seq.*, MCA
Title 85, Chapter 2, Parts 3 and 4, MCA
77-4-201 through 210, MCA

Contact: Department of Natural Resources and Conservation
Water Resources Division
Dam Safety Section

Army Corps of Engineers
District Engineer
Federal Energy Regulatory Commission

2. **Application Requirements** (for dams other than hydropower dams or dams on federal land)

   A. For hazard classification, the dam owner must apply for a determination from the DNRC.

   B. For a construction permit, the dam owner must submit an application form, construction plans, specifications, and a design report to the DNRC.

   C. For an operating permit, the dam owner must submit an application form, inspection report, and operation plan to the DNRC.

3. Fees

There is a $125 application fee for hazard classification. There are no application fees for either the construction or operation permit.

4. Permitting Procedures

The DNRC must issue or deny a construction permit for a high-hazard dam within 60 days of receiving the application. To operate a high-hazard dam, an operating permit must be received from the DNRC. The operating permit requires a construction permit and an approved operation plan. Within 60 days and upon completion of the review to ensure a safely built dam, a construction permit is issued or denied by DNRC. Operation permits are issued by DNRC upon review of the application.

Existing high-hazard dams must obtain an operating permit by October 1, 1990. Those dams classified as high-hazard before July 1, 1985, have until July 1, 1995 to comply.

PUBLIC WATER SUPPLY

1. Types of Activities Regulated

A water system serving ten or more families or 25 or more persons for 60 days out of the calendar year must be approved by the Department of Health and Environmental Sciences. Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Private water supply systems for food and lodging

establishments licensed by the DHES also must be approved. Operators in charge of public water systems and treatment facilities must be licensed by the DHES.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 16.20.401-405 and 16.20.1601

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

2. Application Requirements

A. Prior to commencing construction, alteration or extension of a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

B. The engineering report, plans and specifications for a public water supply must be prepared and designed by a professional engineer according to specific engineering criteria.

C. The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public water supply.

D. If construction, alteration or extension of the public water supply has not commenced within two years after approval, the applicant must resubmit all of the information required in A, B, and C above.

E. The proposed public water supply must comply with the Montana Water Quality Act (75-5-101 *et seq.*, MCA). (See WATER POLLUTION: DISCHARGE PERMITS, p. 138)

F. Any person who wishes to drill a well in the state in order to furnish water for public consumption or use must register with the DHES.

G. Within 90 days after the construction, alteration or extension of the public water supply, the project engineer must certify to the DHES that the required work was completed according to the approved plans and specifications.

Rule: ARM 16.20.401 and 405

SEPTIC TANKS, CESSPOOLS AND PRIVIES

1. Types of Activities Regulated

Persons engaged in the business of cleaning cesspools, septic tanks, or privies and the disposal of septage therefrom must be licensed by the Department of Health and Environmental Sciences, Food and Consumer Safety Bureau. An exclusion is made for the owner or lessee of a property disposing of septage on his or her own land as long as it does not create a nuisance or a public health hazard.

Statute: 37-41-101 and 105, MCA

Rule: ARM 16.14.808

2. Application Requirements

A. Applications for licenses must be made to the DHES, Food and Consumer Safety Bureau on forms provided by the department. The application must contain the applicant's name and business address; a list of counties in which business will be conducted; information on disposal sites and an estimate of the volume of septage to be disposed of at each disposal site; and, certification from the local health officer for each county served that all disposal sites meet applicable state and local requirements.

B. Licenses expire on December 31 of each calendar year and are non-transferable.

Statute: 37-41-201 and 202, MCA

Rule: ARM 16.14.808

3. Fees

The annual application fee for a cesspool, septic tank, and privy cleaning license is $25. A fee of $25 may also be assessed by the department for failure to renew a license before its expiration date.

Statute: 37-41-202(2), MCA

Rule: ARM 16.14.808

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Water Quality Bureau, Department of Health and Environmental Sciences, is required to construct, alter or extend a public sewer system serving 10 or more families or 25 or more persons for at least 60 days out of the calendar year. Operators in charge of public sewer systems must be licensed by the DHES.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 16.20.401 and 402

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Board of Water and Wastewater Operators

2. Application Requirements

A. Prior to commencing construction, alteration or extension of a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

B. The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer according to specific engineering criteria.

C. The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public sewer system.

D. If construction, alteration or extension of the public sewer system has not commenced within two years after approval, the applicant must resubmit all of the information required in A, B and C above.

E. The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*).

F. Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DHES that the required work was completed according to the approved plans and specifications.

Rule: ARM 16.20.401

WATER APPROPRIATIONS - GROUND WATER

1. Types of Activities Regulated

Any ground water appropriation that will exceed 35 gallons of water per minute or 10 acre feet of water per year for a beneficial use (see WATER APPROPRIATIONS - SURFACE - DIVERSIONS, p. 134 for definition), or that is inside an established controlled ground water area, must be permitted by the DNRC before construction can commence.

No application for a permit to appropriate ground water in excess of 3,000 acre-feet per year can be granted by the DNRC without legislative affirmation of the DNRC's decision.

Statute: 85-2-302, 306, 317 and 508, MCA

Rule: ARM 36.12.102 and 103

Contact: Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

2. Application Requirements

A. Any ground water appropriation exceeding 35 gallons per minute or 10 acre-feet per year, or that is within an established controlled ground water area must obtain a permit prior to commencing any construction. (See WATER APPROPRIATIONS - SURFACE - DIVERSIONS, p. 134, for permit application procedures)

B. A person appropriating 35 gallons per minute or less, with an annual volume of 10 acre-feet or less, is not required to obtain a permit before commencing a project. However, within 60 days after the well is completed and the water applied to a beneficial use, he or she must file

a Notice of Completion form with DNRC so a Certificate of Water Right can be issued. The water well driller must file a Well Log Report on the water well with DNRC within 60 days after completion of the well.

C. A permit application in excess of 3,000 acre-feet of ground water per year must be filed with the DNRC. The DNRC may not grant the permit without legislative affirmation of the DNRC's decision (see 85-2-317, MCA).

Statute: 85-2-302, 306, 317, and 516, MCA

Rule: ARM 36.12.102 and 103

WATER APPROPRIATIONS - SURFACE - DIVERSIONS

1. Types of Activities Regulated

State waters may be appropriated for "beneficial uses". These uses include, but are not limited to, agriculture, domestic use, fish and wildlife, mining, industrial activity, municipal supply, power generation, and recreation. A permit to appropriate surface water for beneficial uses is required from the Department of Natural Resources and Conservation prior to commencing any project that proposes to use unappropriated water. A person who intends to appropriate water by means of a reservoir must also have a permit. Application forms are available from the DNRC central office and the nine local Water Resources Regional Offices, or the county clerk and recorder.

A change in place of use, place of diversion, place of storage, or purpose of use of an appropriated water right also requires approval by the DNRC. A change of ownership of a water right must be recorded with the DNRC by the filing of a water right transfer certificate.

State, local and federal governments may apply for reservations of water for future beneficial uses. The application must be filed with the Board of Natural Resources and Conservation. The board has the authority to grant, deny, or modify the reservation requested in the application.

A permit is not required for construction of a pit or reservoir used for watering livestock if: 1) the pit or reservoir would contain less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and that is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream. However, an application for a permit must be requested within 60 days after construction of the pit or reservoir.

Statute: 85-2-301, 302, 306, 316, 402 and 424, MCA

Rule: ARM 36.12.101-105

Contact: County Clerk and Recorder for forms

Department of Natural Resources and Conservation
Water Resources Division

Water Resources Regional Offices in Helena; or,
Local Water Resources Regional Offices located in Helena, Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown, Bozeman and Miles City.

2. Application Requirements

An application for a beneficial water use permit or a change of a water right must be made on forms supplied by the DNRC. A defective application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated. An application for a reservation (which can be made only by state, local or federal governments) is filed with the DNRC, but acted upon by the Board of Natural Resources and Conservation.

Statute: 85-2-301 *et seq.*, MCA

Rule: ARM 36.12.102 and 36.16.103-106

3. Permitting Procedures

A. All applicants should plan ahead and expect this process to take up to six months. The application must be advertised. An administrative hearing may be required if objections are received.

B. The DNRC must prepare a notice on the application for a permit and publish it once in an area newspaper unless the DNRC finds from available information that the proposed appropriation will not adversely affect the rights of other persons.

C. Persons may file written objections to the permit application within a time established by the DNRC not less than 15 or more than 60 days

after the date of publication. The objection must include the name and address of the objector, facts tending to show that there are no unappropriated waters in the proposed source, that the proposed means of appropriation are inadequate, that the property, water rights, or interests of the objector would be adversely affected by the proposed appropriation, that the proposed use of water is not a beneficial use, or that the proposed use will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved.

D. If the DNRC determines that objections to an application are valid, it will hold a public hearing within 60 days from the date set for filing objections, unless an agreement is reached by the parties.

E. The DNRC will normally issue a decision on the permit within 120 days after publication of the notice if no objections have been received, and within 180 days if a hearing is held or objections have been received. These deadlines may be extended up to 60 days if an EIS is required. If no objection to the application is filed but the DNRC determines that the application should be approved in a modified form or denied, it must serve a statement of opinion upon the applicant, along with notice that the applicant may obtain a hearing by filing a request within 30 days.

F. The DNRC may issue a provisional permit for less than the amount of water requested, but in no case may it issue a permit for more water than requested or that can be beneficially used. The DNRC must state the time limits for commencement of the appropriation work, completion of construction, and actual application of the water to the proposed beneficial use.

G. Water permits are provisional until all claims of existing water rights in the source of supply have been adjudicated in state water court. Contact the DNRC or local clerk of court for adjudication procedures.

H. A change authorization simply authorizes a change of an existing water right as to place of use, place of diversion, place of storage or purpose of use.

I. If a hearing is held on objections to an application, a proposed order will be prepared and sent to all parties of record in the case. Any party who disagrees with the order may file an objection and request an oral argument hearing before a final order is issued. The final order may be appealed by the applicant or objector to the district court within 30 days after receiving notice of the decision.

Statute: 85-2-307 through 315 and 402, MCA
See also, the Montana Administrative Procedure Act, 2-4-101 *et seq.*, MCA

Rule: ARM 36.12.201-233 and 36.16.107

4. Fees

The fee schedule established by rule is, with some exceptions, based on the volume of water requested for appropriation. Some applications have a flat fee. Fees are changed to cover some direct costs of the service, but may not cover any costs for employee salaries.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. Criteria

The DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA, and for changes, in 85-2-402, MCA. All permits and change authorizations are issued subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis. Temporary and interim permits may also be issued with specific conditions.

Statute: 85-2-311, 312 and 402, MCA

Rule: ARM 36.12.104

6. Additional Information

A. Reservations

The state or any political subdivision or the federal government may apply to the Board of Natural Resources and Conservation to reserve waters for existing or future beneficial uses. Individuals may not make this application. Applications are processed and investigated by the DNRC. The Board must make findings concerning the purpose and need for the water reservation, the amount of water necessary and whether the proposed use is in the public interest.

Statute: 82-2-316 and 331, MCA

Rule: ARM 36.12.102, 103 and 36.16.101-118

B. Highly Appropriated Basins

The legislature may, by law, preclude permit applications, or the DNRC may, by rule, reject permit applications or modify permits issued in a highly appropriated basin or subbasin. A rule may only be adopted by the DNRC upon petition by at least 25 percent or 10, whichever is less, of the users of water from the source of supply. The petition must allege that no unappropriated waters exist in the source of supply and that further uses will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved.

Statute: 85-2-319, MCA

WATER POLLUTION: DISCHARGE PERMITS

1. Types of Activities Regulated

A permit from the Department of Health and Environmental Sciences is required to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or ground water.

The DHES may authorize short-term exemptions from certain water quality standards for necessary short-term construction or hydraulic projects which may have short-term water quality impacts. Plans and specifications for tailings ponds, leaching pads and holding facilities must be submitted to the DHES for review and approval at least 180 days before commencement of operations.

Statute: Montana Water Quality Act, 75-5-101 *et seq.*, MCA

Rule: ARM 16.20.633, 16.20.1301 *et seq.*, and 16.20.1001 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

2. Application Requirements

The applicant for a water pollution discharge permit must file an application for a Montana Pollution Discharge Elimination System (MPDES) permit or a Montana Groundwater Pollution Control System (MGWPCS) permit no less than 180 days prior to the operation of a point source. A National Pollutant Discharge Elimination System Permit (contact the federal Environmental Protection Agency) or a Refuse Act permit (contact the U.S. Army Corps of Engineers) also fulfill these requirements.

Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, groundwater characteristics, process and waste flow diagrams, and volume and nature of projected discharges. Application for short-term exemption from water quality standards must be made on forms provided by the DHES.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 16.20.1301 and 16.20.1013

3. Permitting Procedures

A. Upon receipt of the permit application, the DHES must make a tentative determination with respect to issuance or denial of an MPDES permit. The DHES is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination.

B. At least 30 days are provided for written comments from the public regarding the application.

C. The applicant, any affected agency, state, or country, the regional administrator of the Environmental Protection Agency, or any interested person or agency may request a public hearing on the application. The hearing must be held in the geographical area of the proposed discharge.

D. If the DHES denies the discharge permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences. The hearing must be held within 30 days of the receipt of the written request.

E. All MPDES permits are issued for a fixed term, not to exceed five years. All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 16.20.1301 *et seq.*, and 16.20.1001 *et seq.*

4. **Criteria**

All discharges of pollutants into state waters authorized by an MPDES permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the MPDES permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits, create floating debris, produce odors, create toxic concentrations harmful to human, animal, plant and aquatic life, or create conditions capable of producing undesirable aquatic life.

Rule: ARM 16.20.633, 1002, 1003, 1015 and 1318

5. **Additional Information**

A. Non-degradation

If effluent limitations or other conditions are imposed on a discharge permit in order to maintain water quality at levels better than the applicable water quality standards as directed by the state's non-degradation policy, the permittee may, within 30 days, petition the Board of Health for an exemption from such non-degradation requirements. The board will evaluate the petition and may require an environmental impact statement if needed to comply with the Montana Environmental Policy Act. The board's decision must be made following a public hearing.

Statute: 75-5-303, MCA

Rule: ARM 16.20.701 *et seq.*

B. General Permits

Certain specified categories of discharge may be authorized by a summary procedure under a general permit authorization.

Rule: ARM 16.20.1317

WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS

1. Types of Activities Regulated

In accordance with amendments to the Federal Clean Water Act of 1972, anyone who wishes to discharge waste materials from a point source into waters of the United States must obtain a National Pollutant Discharge Elimination System (NPDES) Permit. The U. S. Environmental Protection Agency (EPA) granted permitting authority to the state of Montana in 1981, and thus, the Montana Department of Health and Environmental Sciences, Water Quality Bureau issues discharge permits and monitors all dischargers in Montana, with the exception of those on any of the seven Indian Reservations. The EPA is the permit issuing authority for all wastewater dischargers inside reservation boundaries.

Each NPDES permit sets forth maximum limits for specific pollutant components which may be found in a particular discharge. The limits are calculated using either the National Secondary Treatment Standards, the Effluent Limitation Guidelines (40 CFR Parts 400 to 471) or site specific water quality criteria. Compliance with the NPDES permit is enforceable under sections 308 and 309 of the Clean Water Act.

Statute: 33 U.S.C. 1251 *et seq.*, Federal Water Pollution Control Act

Contact: U. S. Environmental Protection Agency
Montana Office, Helena

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

WATER WELLS

1. Types of Activities Regulated

In general, a permit is not required for appropriations of water by means of a well or developed spring that are 35 gallons or less per minute and with an annual volume of 10 acre-feet or less for any type of use. However, notice of completion of the well must be filed with the Department of Natural Resources and Conservation within 60 days. Defective notices are returned to the well owners and must be resubmitted within a time specified by the DNRC in order to retain priority. All wells must be drilled by a contractor or driller licensed by the Board of Water Well contractors or by

a person who has obtained a permit from the board to drill a well on his or her own agricultural property for private use.

Statute: 37-43-101 *et seq.*, MCA
85-2-306, MCA

Rule: ARM 36.21.601 *et seq.*
ARM 36.12.101 *et seq.*

Contact: County Clerk and Recorder

Board of Water Well Contractors

Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

2. Application Requirements

A. A person who might engage in the drilling, making, construction, alteration, or rehabilitation of one or more water or monitoring wells for underground water in this state must file an application with the Board of Water Well Contractors for a license. The application must include verification of one or more years in the water well or monitoring field.

B. Permits for individuals drilling wells on their own property must show their interest in the land on which the well will be constructed and the method of construction to be used. Permits are often issued the same day if the application is complete.

3. Fees

A. There is a flat fee of $20 for filing a Notice of Completion on a well of 35 gallons per minute or less or an annual volume of 10 acre-feet or less (see WATER APPROPRIATIONS - SURFACE - DIVERSIONS, p. 134 for fees required on permit applications).

B. There is no fee for filing the Well Log Report form.

C. Application and Renewal Fees are:

Category	Application Fee	Renewal Fee	Dates Valid
Water Well Contractor	$275	$140	July 1 - June 30
Water Well Driller	$165	$ 90	July 1 - June 30
Monitoring Well Constructor	$165	$140	July 1 - June 30

D. There is no fee for drilling a well on one's own property.

Rule: ARM 36.12.103

4. **Permitting Procedures**

A. Water well applications are reviewed and, if complete, can be approved on the date received. The examination is graded within three days. Driller's licenses are issued when the exam is passed. Entire application-review periods can be as short as one day, but average one or two weeks.

B. Contractor's licenses are not issued until bonds are submitted, and take an average of two weeks to be processed.

C. The National Water Well Association monitoring exam is given and graded by the NWWA. Grading takes about two to three weeks.

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Board of Natural Resources and Conservation are required to engage in weather modification and control activities.

Statute: 85-3-101 through 303, MCA

Rule: ARM 36.20.101-307

Contact: Department of Natural Resources and Conservation
Water Resources Division

2. Application Requirements

A license is required of any person wishing to engage in weather modification activities within Montana. Applicants for such licenses must demonstrate competence in the field of meteorology. Application forms for weather modification permits are available upon request from the Water Resources Division of DNRC. A license expires at the end of the calendar year in which it is issued; at the expiration of the period, qualified licensees may apply for, and be issued, a renewal.

Persons holding valid weather modification licenses must apply for, and be issued, permits before they engage in actual weather modification and control activities. Separate permits are required for each operation. An applicant for a permit to conduct weather modification activities must file a notice of intention with the DNRC. The notice must include the applicant's name, address and information on the operations, the area to be affected and the materials and methods to be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper in the affected county. A public hearing may be required. License and permit forms are available from the DNRC.

Statute: 85-3-201, 203, 204, and 206 through 210, MCA.

3. Fees

A. The fee for a license or renewal to conduct weather modification is $100.

B. The fee for a permit to conduct weather modification operations is one percent of the estimated cost of the

operation.

C. The applicant must reimburse the DNRC for the cost of publishing the notice of intent. The applicant may, at the discretion of the DNRC, be assessed for the costs associated with holding a public hearing on a permit application.

Statute: 85-3-205, 210(2), and 212; MCA

4. Permitting Procedures

Information provided in the license applications is corroborated by the DNRC. Licenses are then awarded or not awarded by the board, based upon the statutory criteria.

Permit applications must be submitted at least ninety days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC at least six months before the operation is scheduled to begin. Once received, the application is evaluated, and an environmental analysis may be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC then makes recommendations to the board for approval, approval with conditions, or rejection. The board makes its decision based on the criteria described below.

5. Criteria

Competence in the field of weather modification and meteorology must be demonstrated by the applicants' experience, education, or certification by a nationally recognized weather modification professional society, agency, or organization. A minimum of one year of experience in management and control of a weather modification operation is required.

Approval criteria for permit applications are:

A. that the person in charge be licensed to conduct weather modification activities in Montana;
B. that the project has been properly noticed;
C. that the project has been insured in a manner that would protect victims of any unintended weather modification results;

D. that the fees have been or will be paid, in accordance with the statute; and

E. that the project is for the general welfare and public good because:

1) it is based on a sound scientific basis, and plans have been made for its effective monitoring and control;
2) the project has the potential of producing benefits;
3) the project will not result in serious adverse impacts; and
4) the anticipated benefits outweigh the potential adverse impacts.

6. **Additional Information**

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

MONTANA ENVIRONMENTAL POLICY ACT

1. Types of Activities Regulated

As outlined in the Montana Environmental Policy Act, all agencies of the state must conduct an environmental review when making decisions or planning activities which may have an impact on the environment. In conducting the review, the agencies must utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts. Depending on the scope and significance of the project, the agency must prepare either an environmental assessment (EA) or an environmental impact statement (EIS). The environmental review process applies not only to actions initiated by the agency, but also to the issuance of state permits, licenses, and approvals for private actions which will impact the environment.

2. Review Process

A. Environmental Assessments (EA)

A state agency must prepare an EA when it is considering an action that impacts the environment and it is unclear whether an EIS is needed, or it is clear that the impacts of the proposed action are not significant, or statutory requirements do not allow sufficient time for the agency to prepare an EIS. The level of analysis required for an EA depends on the complexity of the proposed action, the environmental sensitivity of the area, the degree of uncertainty as to whether the proposed action will have a significant impact on the environment, and the need for and complexity of mitigation required to avoid significant impacts. At a minimum, the EA must include a description of the proposed action; the benefits and purpose of the proposed action; a list of other responsible local, state, or federal agencies; an evaluation of both cumulative and secondary impacts; an analysis of reasonable alternatives -- including a no action alternative; a list of appropriate mitigation or other controls enforceable by the agency; and a finding on the need for an EIS. If an EIS is not needed, the agency must explain why an EA is sufficient.

B. Environmental Impact Statements (EIS)

A state agency must prepare an EIS whenever an EA indicates an EIS is necessary, or when the agency determines that the proposed action is a major action that will significantly affect the environment. An EIS must discuss the environmental impact of the proposed action; any adverse environmental effects which cannot be avoided should the action be taken; alternatives to the proposed action; the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity; and any irreversible and irretrievable commitments of resources which would be involved if the proposed action were taken.

Prior to preparing an EIS, the agency must determine the scope of the analysis. The agency must invite affected federal, state, and local government agencies, native american tribes, the applicant, and interested persons and groups to identify the issues related to the proposed action that are likely to involve significant impacts, as well as those activities that are not likely to involve significant impacts, and to consider possible alternatives to be considered in the EIS.

The agency must then prepare a draft EIS and distribute it for public comment. Depending on the comments received, the agency may revise the draft EIS and publish a final EIS, or adopt the draft as the final EIS. The final EIS must include a summary of the major conclusion and supporting information from the draft EIS; a list of all sources of oral and written comments on the draft EIS; the agency's responses to those comments; information obtained subsequent to circulation of the draft EIS; and the agency's recommendation, preferred alternative, or proposed decision together with an explanation of the reasons thereof.

3. Fees

If the cost of preparing the EIS will exceed $2500, the agency may assess a fee from the applicant to pay the costs of EIS preparation. The agency must notify the applicant within 30 days after receipt of the complete application if a fee will be required. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

4. **Additional Information**

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

Statute: 75-1-101 *et seq,* MCA

Rule: Agriculture:
ARM 4.2.312 *et seq*
Fish, Wildlife and Parks:
ARM 12.2.428 *et seq*
Health and Environmental Sciences:
ARM 16.2.601 *et seq*
Highways:
ARM 18.2.235 *et seq*
State Lands:
ARM 26.2.628 *et seq*
Livestock:
ARM 32.2.201 *et seq*
Natural Resources:
ARM 36.2.521 *et seq*

Contact: Specific Agency

Environmental Quality Council

MONTANA ADMINISTRATIVE PROCEDURES ACT

1. **Types of Activities Regulated**

Whenever a license or permit decision is required by statute to be preceded by a hearing, the contested case provisions of the Administrative Procedure Act apply.

Statute: 2-4-601 *et seq.*, MCA

Rule: ARM 1.3.101 *et seq.*

2. **Permitting Procedures**

All parties must be afforded an opportunity for hearing after reasonable notice. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decision makers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

Statute: 2-4-702(2)(a), MCA

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF AGRICULTURE

Director, Everett M. Snortland
Agriculture and Livestock Building
Sixth and Roberts
Helena, Montana 59620
(406) 444-3144

Agricultural and Biological Sciences Division
Administrator, Gary Gingery
Sixth and Roberts
(406) 444-2944

Aerial pesticide applications
Pesticide applications
Pesticide registration

Plant Industry Division
Administrator, Roy Bjornson
Sixth and Roberts
(406) 444-3730

Fertilizer registration

DEPARTMENT OF COMMERCE

Director, Charles A. Brooke
1424 Ninth Avenue
Helena, Montana 59620
(406) 444-3494

Local Government Assistance Division
Administrator, Newell Anderson
Cogswell Building, Room C-211
(406) 444-3757

Community Development Bureau
Bureau Chief, Dave Cole
Cogswell Building, Room C-211
(406) 444-3757

Subdivisions

Hardrock Mining Impact Board
Administrative Officer, Carol Ferguson
Cogswell Building, Room C-211
(406) 444-4478

Hardrock mining

Public Safety Division
Administrator, James Kemble
1424 Ninth Avenue
(406) 444-3737

Building Codes Bureau
Chief, James Brown
1218 E. Sixth Avenue
(406) 444-3933

Building codes

Professional and Occupational Licensing Bureau
Chief, Steve H. Meloy
111 North Jackson
(406) 444-3737

Outfitters and guides
Sale of subdivided land

ENVIRONMENTAL QUALITY COUNCIL

Executive Director, Deborah Schmidt
Capitol Building, Room 106
Helena, Montana 59620
(406) 444-3742

Environmental impact statements
Environmental assessments

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Director, K.L. Cool
1420 East Sixth Avenue
Helena, Montana 59620
(406) 444-2535

Administration and Finance Division
Administrator, Dave Mott
1420 East Sixth Avenue
(406) 444-4786

License Bureau
Chief, Jim Herman
(406) 444-2662

Fish and game licenses
Special permits and licenses

Fisheries Division
Administrator, Larry Peterman
1420 East Sixth Avenue
(406) 444-2449

Salmon eggs
Streambed protection
Habitat preservation

Law Enforcement Division
Administrator, Erwin Kent
1420 East Sixth
(406) 444-2452

Commercial seining
Game preserves
Game for scientific purposes
Fishing, hunting, trapping regulations
Fur dealers
Game, game bird or fur farms
Ice fishing shelters
Roadside zoos
Shooting preserves
Snare trapping
Snowmobiles
Shooting preserve bird tags

Wildlife Division
Administrator, Don Childress
1420 East Sixth
(406) 444-2612

Baits on DFWP lands
Endangered species
Migratory waterfowl permits
Wild bird permits

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Director, Dennis Iverson
Cogswell Building, Room C-108
Helena, Montana 59620
(406) 444-2544

Environmental Sciences Division
Administrator, Steve Pilcher
Cogswell Building, Room A-107
(406) 444-3948

Air Quality Bureau
Chief, Jeff Chaffee
Cogswell Building, Room A-116
(406) 444-3454

Air pollution permits
Burning permits
Major facility certificates

Food and Consumer Safety Bureau
Chief, Mitzi Schwab
Cogswell Building, Room A-104
(406) 444-2408

Dairies
Septic tanks, cesspools, privies
Trailer courts, camp grounds

Occupational Health Bureau
Chief, Adrian C. Howe
Cogswell Building, Room A-113
(406) 444-3671

Asbestos control
Occupational emissions
Noise
Radioactivity

Solid and Hazardous Waste Bureau
Chief, Duane Robertson
836 Front Street
(406) 444-2821

Underground Storage Tank Section
Section Supervisor, John Geach
(406) 444-5970

Underground storage tanks

Waste Management Section
Section Supervisor, Roger Thorvilson
(406) 444-1430

Hazardous waste disposal
Motor vehicle wrecking facilities
Roadside junkyards (see Dept. of Highways)
Solid waste disposal

Water Quality Bureau
Chief, Dan L. Fraser
Cogswell Building, Room A-206
(406) 444-2406

Animal confinement facilities (feedlots)
Hardrock mining discharge permits
Major facility certificates
Oil and gas wells - discharge permits
Public water supplies
Sewer systems
Subdivisions
Uranium solution extraction
Water pollution permits

Health Services Division
Administrator, J. Dale Taliaferro
Cogswell Building, Room C-202
(406) 444-4473

Preventive Health Services Bureau
Chief, Judith Gedrose
Cogswell Building, Room C-314
(406) 444-4748

Roadside zoos

MONTANA HISTORICAL SOCIETY

Director, Lawrence J. Sommer
225 North Roberts
Helena, Montana 59620
(406) 444-2694

State Historic Preservation Office
Preservation Officer, Marcella Sherfy
102 Broadway
(406) 444-7715

Heritage site preservation

DEPARTMENT OF JUSTICE

Attorney General, Marc Racicot
Justice Building, 3rd Floor
215 North Sanders
Helena, Montana 59620
(406) 444-2026

Law Enforcement Services Division
Administrator, Gary Carrell
Scott Hart Building, Room 363
303 North Roberts
(406) 444-3874

Fire Marshall Bureau
State Fire Marshall, Ray Blehm
303 North Roberts, Room 371
(406) 444-2050

Above-ground storage tanks
Fire inspection

DEPARTMENT OF LABOR AND INDUSTRY

Commissioner, Mike Micone
Lockey and Roberts
Helena, Montana 59620
(406) 444-3555

Research, Safety and Training Division
Administrator, Bob Anderson
Lockey and Roberts
(406) 444-4524

Safety Bureau
(406) 444-6401

Coal mining safety regulations
Hardrock mining safety regulations
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Secretary, Les Graham
Scott Hart Building, 3rd Floor
310 Roberts
Helena, Montana 59620
(406) 444-2023

Milk and Egg Bureau
Chief, Dr. Hal Sheets
(406) 444-5202

Dairies

Predator Control Bureau
Chief, Hal Sheets
(406) 444-5202

Predator control

Pilot and Aircraft Unit
Monte D. Ballou
(406) 444-2023

Aerial hunting

Animal Health Division
Administrator, Donald Ferlicka DVM
Scott Hart Building, 3rd Floor
(406) 444-2043

Slaughterhouses and meatpacking plants

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Karen Barclay
1520 East Sixth Avenue
Helena, Montana 59620
(406) 444-6699

Conservation and Resource Development Division
Administrator, Ray Beck
1520 East Sixth Avenue
(406) 444-6667

Conservation Districts Bureau
Chief, Steve Schmitz
(406) 444-6691

Soil and water conservation districts
Stream banks, stream beds

Energy Division
Administrator, Van Jamison
1520 East sixth Avenue
(406) 444-6754

Conservation and Renewable Energy Bureau
Chief, Louise Moore
(406) 444-6697

Geothermal development

Facility Siting Bureau
Chief, Art Compton
(406) 444-6791

Facility siting certificates

Planning and Analysis Bureau
Chief, Alan Davis
(406) 444-6697

Facility siting certificates

Oil and Gas Conservation Division
Assistant Administrator, Dee Rickman
1520 East Sixth Avenue
(406) 656-0040

Oil and gas development
Geophysical exploration

Water Resources Division
Administrator, Gary Fritz
1520 East Sixth Avenue
(406) 444-6601

Lakeshores

Dam Safety Program
Assistant Administrator, Laurence Siroky
(406) 444-6601

Dams and reservoirs

Engineering Bureau
Chief, Richard Bondy
(406) 444-6646

Floodplain regulations
Hydroelectric Sites

Water Management Bureau
Chief, Richard Moy
(406) 444-6637

Water wells
Weather modification

Water Rights Bureau
Chief, Larry Holman
(406) 444-6610

Water appropriations
Water rights

DEPARTMENT OF PUBLIC SERVICE REGULATION

Chair, Howard Ellis
2701 Prospect Avenue, Building D
Helena, Montana 59620
(406) 444-6169

Utility Division

Administrator, Dan Elliott
2701 Prospect Avenue
(406) 444-6180

Pipelines
Utilities

SECRETARY OF STATE

Mike Cooney
State Capitol, Room 225
Helena, Montana 59620
(406) 444-2034

Geophysical exploration

DEPARTMENT OF STATE LANDS

Commissioner, Dennis Casey
1625 Eleventh Avenue
Helena, Montana 59620
(406) 444-2074

Forestry Division
State Forester, Gary Brown
2705 Spurgin Road
Missoula, Montana 59801
(406) 542-4300

Burning permits
Cabin sites
Christmas tree cutting
Portable sawmills
Slash disposal
Streamside management zones
Timber removal
Timber sales

Land Administration Division
Administrator, Jeff Hagener
1625 Eleventh Avenue
(406) 444-2074

Activities on state lands:

Cropland leases
Grazing leases
Geothermal leases
Hydroelectric sites
Natural areas
Mining leases
Oil and gas leases

Reclamation Division
Administrator, Gary Amestoy
1625 Eleventh Avenue
(406) 444-2074

Coal and uranium mining
Hardrock mining
Milling/Reprocessing
Opencut mining

DEPARTMENT OF TRANSPORTATION

Director, John Rothwell
Highway Building
2701 Prospect Avenue
Helena, Montana 59620
(406) 444-6201

Aeronautics Division
Administrator, Michael Ferguson
2630 Airport Road
(406) 444-2506

Aerial pesticide application
Airports

Engineering and Operations
Deputy Director, Thomas J. Barnard
2701 Prospect Avenue
(406) 444-6206

Engineering Division
Administrator, Gordon Larson
2701 Prospect Avenue
(406) 444-6003

Right of Way Bureau
Chief, Jack R. Ricker
(406) 444-6057

Easements, encroachments
Roadside junkyards

Area Maintenance Bureaus
(see APPENDIX 2)

Approach permits
Highway advertising permits
Utility permits

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: Regional Supervisor, Roger Filger
2300 Lake Elmo Drive
(406) 252- 4654

Bozeman: Regional Supervisor, Bob Martinka
1400 South 19th
(406) 994-4042

Glasgow: Regional Supervisor, Art Warner
RR 1-4210
(406) 228-9347

Great Falls: Regional Supervisor, Mike Aderhold
600 Giant Springs Road
P.O. Box 6609
(406) 454-3441

Kalispell: Regional Supervisor, Dan Vincent
P.O. Box 67
490 North Meridian
(406) 752-5501

Miles City: Regional Supervisor, Dick Ellis
RR 1; P.O. Box 2004
(406) 232-4365

Missoula: Regional Supervisor, Dick Clough
3201 Spurgin Road
(406) 542-5500

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Quality Bureau

Billings: Eastern Montana College
Petro Hall
Box 108
(406) 657-2617

Food and Consumer Safety Bureau

Billings: Eastern Montana College
Petro Hall
Box 108
(406) 657-2619

Water Quality Bureau

Billings: Eastern Montana College
Petro Hall
Box 108
(406) 657-2616

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Oil and Gas Conservation District Offices

Technical and Southern Field Office
2535 St. Johns Avenue
Billings, MT 59102
(406) 656-0040

Northern Field Office
218 Main Street
Shelby, MT 59474
(406) 434-2442

Water Rights Bureau Field Offices

Billings:	1537 Avenue D, Suite 121 (406) 657-2105
Bozeman:	11 North Tracy (406) 586-3136
Glascow:	839 1st Avenue South P.O. Box 1269 (406) 228-2561
Havre:	1708 West 2nd Street P.O. Box 1828 (406) 265-5516
Helena:	1520 6th Avenue (406) 444-6695
Kalispell:	3220 Highway 93 South P.O. Box 860 (406) 752-2288
Lewistown:	204 South Daws P.O. Box 438 (406) 538-7459
Miles City:	5 North Prairie Avenue P.O. Box 276 (406) 232-6359
Missoula:	Holiday Village Professional Plaza Suite 105 P.O. Box 5004 (406) 721-4284

DEPARTMENT OF STATE LANDS

State Land Offices

Central Land Office
8001 North Montana
Helena, Montana
(406) 444-3633

Eastern Land Office
321 Main
Miles City, Montana
(406) 232-2045

Northeastern Land Office
USDA Building
613 Northeast Main Street
Lewistown, Montana
(406) 538-7789

Northwestern Land Office
2250 Highway 93 North
P.O. Box 490
Kalispell, Montana
(406) 752-7994

Southern Land Office
Airport Industrial Park
Billings, Montana
(406) 259-3264

Southwestern Land Office
1401 27th Avenue
Missoula, Montana
(406) 542-4200

DEPARTMENT OF TRANSPORTATION

District and Area Field Offices

Billings:	424 Morey (406) 252-4138
Bozeman:	907 North Rouse Avenue (406) 586-9562
Butte:	Wynne and Lowell (406) 494-3224
Glendive:	503 North River Avenue (406) 365-5296
Great Falls:	P.O. Box 1359 (406) 727-4350
Havre:	P.O. Box 592 (406) 265-6821
Lewistown:	P.O. Box 491 (406) 538-8731
Kalispell:	85 5th Avenue North East (406) 755-5717
Miles City:	P.O. Box 460 (406) 232-1093
Missoula:	P.O. Box 7039 (406) 549-6491
Wolf Point:	Highway 13 East (406) 653-1050

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

CONSERVATION and GRAZING DISTRICTS

Agricultural activities
Forestry activities
Grazing leases
Land use regulations
Subdivision activities

Beaverhead District
Contact: Jan Phillips
P.O. Box 606
Dillon, Montana 59725
(406) 683-6539

Big Horn District
Contact: Gloria Menke
724 West Third Street
Hardin, Montana 59034
(406) 665-3777

Big Sandy District
Contact: Sonia Silvan
P.O. Box 111
Big Sandy, Montana 59520
(406) 378-2298

Bitterroot District
Contact: Cheryl Brown
1709 North First Street
Hamilton, Montana 59840
(406) 363-5010

Blaine County District
Contact: Shannon Sattleen
P.O. Box 189
Chinook, Montana 59523
(406) 357-2310

Broadwater District
Contact: Charlotte Lewis
P.O. Box 147
Townsend, Montana 59644
(406) 266-3146

Carbon District
Contact: Martha Haverkamp
Drawer J
Joliet, Montana 59041
(406) 962-3641

Carter County District
Contact: Beverly Willson
P.O. Box 313
Ekalaka, Montana 59324
(406) 775-6355

Cascade County District
Contact: Dixie Nugent
1807 Third Street Northwest
Great Falls, Montana 59404
(406) 727-3603

Chouteau County District
Contact: Julia Bitz
P.O. Box 309
Fort Benton, Montana 59442
(406) 622-5627

Culbertson-Bainville District
Contact: Shirley Rasmussen
P.O. Box 517
Culbertson, Montana 59218
(406) 787-5232

Custer County District
Contact: Bonnie Giltner
3120 Valley Drive East
Miles City, Montana 59301
(406) 232-2439

Daniels County District
Contact: Mary Tymofichuk
P.O. Box 843
Scobey, Montana 59263
(406) 487-2872

Dawson County District
Contact: Patty Winchell
102 Fir Street FP
Glendive, Montana 59330
(406) 365-5563

Deer Lodge Valley District
Contact: Shaunda Hildebrand
91 North Frontage Road
Deer Lodge, Montana 59722
(406) 846-1703

E. Sanders County District
Contact: Patsy Meredith
102 Highway 200 West
Plains, Montana 59859
(406) 826-3701

Fergus County District
Contact: Georgene Kolstad
613 NE Main
Lewistown, Montana 59457
(406) 538-7401

Flathead District
Contact: Cathy Jones
35 West Reserve Drive
Kalispell, Montana 59901
(406) 752-4242

Froid District
Contact: Shirley Rasmussen
P.O. Box 517
Culbertson, Montana 59218
(406) 787-5232

Gallatin District
Contact: Bonnie Elmore
601 Nikles Drive, Box B
Bozeman, Montana 59715
(406) 587-6929

Garfield County District
Contact: Sonja Turner
P.O. Box 369
Jordan, Montana 59337
(406) 557-2232

Glacier County District
Contact: Gloria Mason
517 East Main Street
Cut Bank, Montana 59427
(406) 873-5752

Granite District
Contact: Susan Antonioli
P.O. Box U
Philipsburg, Montana 59858
(406) 859-3291

Green Mountain District
Contact: Jean Gerstenberger
P.O. Box 1329
Trout Creek, Montana 59874
(406) 827-3520

Hill County District
Contact: Krista Young
720 First Street West
Havre, Montana 59501
(406) 265-6252

Jefferson Valley District
Contact: Dorothy Makowski
P.O. Box D
Whitehall, Montana 59759
(406) 287-3215

Judith Basin District
Contact: Pat Bodner
P.O. Box 386
Stanford, Montana 59479
(406) 566-2311

Lake County District
Contact: Chris Malgren
P.O. Box 766
Polson, Montana 59860
(406) 883-5875

Lewis and Clark County District
Contact: Connie Olsen
Drawer 10022
Helena, Montana 59626
(406) 449-5278

Liberty County District
Contact: Edi Hodges
P.O. Box 669
Chester, Montana 59522
(406) 759-5778

Lincoln District
Contact: Vicki McGuire
655 Highway 93 North
Eureka, Montana 59917
(406) 296-2233

Little Beaver District
Contact: Jan Menger
P.O. Box 917
Baker, Montana 59313
(406) 778-2217

Lower Musselshell District
Contact: Heidi Brewer
109 Railroad Avenue East
Roundup, Montana 59072
(406) 323-2103

Madison District
Contact: Chuck Aaberg
P.O. Box 606
Ennis, Montana 59729
(406) 682-7289

McCone District
Contact: Cindie Loberg
P.O. Box 276
Circle, Montana 59215
(406) 485-2660

Meagher County District
Contact: Donna Burns
P.O. Box 589
White Sulphur Springs,
Montana 59645
(406) 547-3633

Mile High District
Contact: Dorothy Makowski
P.O. Box D
Whitehall, Montana 59759
(406) 287-3215

Mineral County District
Contact: Carolinn Shibley
P.O. Box 390
Superior, Montana 59872
(406) 822-4542

Missoula County District
Contact: Debra Parry
5115 Highway 93 South
Missoula, Montana 59801
(406) 329-3684

North Powell District
Contact: Shaunda Hildebrand
91 North Frontage Road
Deer Lodge, Montana 59722
(406) 846-1703

Park District
Contact: Debby Claytor
Route 62, Box 3197
Livingston, Montana 59047
(406) 222-2899

Petroleum County District
Contact: Beverly Altenburg
P.O. Box 118
Winnett, Montana 59087
(406) 429-6646

Phillips District
Contact: Diane Jones
HC 72, Box 7615
Malta, Montana 59538
(406) 654-1334

Pondera County District
Contact: Gloria Griggs
Pondera Village
Shopping Center
Conrad, Montana 59425
(406) 278-3922

Powder River District
Contact: Twila Jo Talcott
P.O. Box 180
Broadus, Montana 59317
(406) 436-2417

Prairie County District
Contact: Ruth Roos
P.O. Box 622
Terry, Montana 59349
(406) 637-5868

Richland County District
Contact: Jean St. Cyr
HCR 89, Box 5165A
Sidney, Montana 59270
(406) 482-2110

Rosebud District
Contact: Jeanne LaBree
P.O. Box 1200
Forsyth, Montana 59327
(406) 356-7479

Ruby Valley District
Contact: Lida Robinson
P.O. Box 295
Sheridan, Montana 59749
(406) 842-5741

Sheridan County District
Contact: Thelma Williams
119 North Jackson
Plentywood, Montana 59254
(406) 765-2252

Stillwater District
Contact: Barbara Berry
P.O. Box 415
Columbus, Montana 59019
(406) 322-5359

Sweet Grass County District
Contact: Jyl Scheel
P.O. Box 749
Big Timber, Montana 59011
(406) 932-5160

Teton County District
Contact: Dale Johnson
P.O. Box 488
Choteau, Montana 59422
(406) 466-5722

Toole County District
Contact: Kristi Schwartz
865 Oilfield Avenue
Shelby, Montana 59474
(406) 434-5835

Treasure County District
Contact: Diane Stephenson
P.O. Box 231
Hysham, Montana 59038
(406) 342-5466

Upper Musselshell District
Contact: Cheryl Miller
P.O. Box 201
Harlowton, Montana 59036
(406) 632-5534

Valley County District
Contact: Alice Eide
98 Highway 2 East
Glasgow, Montana 59230
(406) 228-4324

Wibaux District
Contact: Karen Obrigewitch
P.O. Box 179
Wibaux, Montana 59353
(406) 795-2211

Yellowstone District
Contact: LaVerne Ivie
Building B, Suite 2
Billings, Montana 59102
(406) 657-6527

DISTRICT COURT

Mining right-of-way
Overhead lines

LOCAL GOVERNING BODIES: CITY OR TOWN COUNCILS OR BOARD OF COUNTY COMMISSIONERS

Airport zoning
Building codes
Burning permits
Ferries
Fire inspection
Floodway regulation
Geophysical exploration
Highway excavations
Improvement districts
Lakeshore protection
Mains, water and sewer
Mining claims
Oil and gas leases
Overhead lines
Stream preservation
Subdivision plat approval
Timber removal
Utility extensions
Water appropriations
Zoning

LOCAL HEALTH OFFICIALS

Air pollution permits
Campgrounds
Dairies
Solid waste disposal facilities
Subdivisions, sanitary restrictions
Tourist campgrounds
Trailer courts

SHERIFF

Fire inspection

APPENDIX 4: FEDERAL AGENCIES

U.S. DEPARTMENT OF THE ARMY, CORP OF ENGINEERS

Omaha District Headquarters
215 North 17th Street
Omaha, Nebraska 68102-4978

US Army Corp of Engineers
c/o DNRC/CDD
1520 East Sixth Avenue
Helena, MT 59620-2301
(406) 444-6670

Dams and reservoirs
Stream preservation, wetlands

U.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management
Montana State Office
222 North 32nd Street
P.O. Box 36800
Billings, Montana 59107
(406) 255-2885

Bureau of Land Management
Lewistown District Office
Airport Road
Lewistown, Montana 59457
(406) 538-7461

Bureau of Land Management
Butte District Office
P.O. Box 3388
Butte, Montana 59702
(406) 494-5059

Bureau of Land Management
Miles City District Office
P.O. Box 950
Miles City, Montana 59301
(406) 232-4331

Grazing leases
Mine claim recording

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

19 North 25th Street
Billings, Montana 59101

Indoor emissions
Occupational noise

U.S. ENVIRONMENTAL PROTECTION AGENCY

Region VIII, Montana Office
Federal Building
310 South Park
Drawer 10096
Helena, Montana 59626-0096
(406) 449-5432

Activities on tribal lands
Oil and gas recovery (Underground Injection Control Program)
Pesticide registration

U.S. FEDERAL ENERGY REGULATORY COMMISSION

Regional Office
1120 S.W. 5th Avenue, Suite 1340
Portland, Oregon 97204
(503) 292-5844

Office of Hydropower Licensing
Washington D.C. 20426
(202) 219-2700

Hydroelectric sites

INDEX

A

Administrative Procedure Act 137, 150
Aerial hunting 51, 61, 159
Agriculture xiv, 10, 11, 14, 15, 18-21, 120, 123, 134, 149, 151
    conservation districts 2, 3, 12, 14, 30, 75, 159
    cropland leases 14, 163
    fertilizer registration 15, 151
    meatpacking plants 39, 159
    pesticide registration 19, 151, 177
    slaughterhouses 39, 159
Air pollution 24, 26, 27, 108, 155, 175
Air quality permits 24, 27, 41, 66, 75, 83, 87
    asphalt plants 24
    burning permits 41, 42, 155, 162, 175
    federal air quality permits 27
    lowest achievable emission rate 27
    nonattainment areas 27
    prevention of significant deterioration 26
    temporary crushers 24
Airport Zoning Act 2
Airports 1, 2, 163
    airport hazard regulation 2
    airport influence area 1
    Federal Aviation Administration Regulations 1, 18, 19
    noise levels 1, 102
Alternative site studies 38
Ambient air quality 26, 27
Anhydrous ammonia 16
Animal confinement facilities 14, 156
Animal-unit-month 18
Antiquities permits 5
Asbestos xiv, 32, 33, 87, 155
Asbestos abatement 32, 33
Asbestos control 32, 155
Asphalt plants 24

B

Bait fish 57, 58
Big game hunting 61
Boating
    boat racing 98
    boat registration 97
    noise standards for 98
Building codes 22, 152, 175
Burning permits 41, 42, 155, 162, 175

C

Cabin sites 42, 162
Campgrounds 98, 99, 175
Capital improvements 123, 125
Certificate of Clearance 42
Certificate of Public Need and Environmental Compatibility 28, 35
Cesspools 111, 131, 155
Clean Water Act 12, 30, 141
Coal leases 83, 84
Conservation districts 2, 3, 12, 14, 30, 75, 159
Conservation easements 9
Cropland leases 14, 163

D

Dairies 39, 155, 158, 175
Dam safety 128, 161
Dams 2, 29-31, 35, 128, 129, 161, 176
    high-hazard dams 129
Degradation of state waters 70
Dikes 2, 49
Discharge permits 14, 38, 66, 75, 83, 91, 130, 138, 141, 156
Ditches 2, 6, 49, 80

E

Eagles 64
Eminent domain 91
Endangered species 63, 154
Environmental assessment 91, 104, 109, 119, 122, 123, 147
Environmental impact statements 25, 148, 153
Excavation of heritage properties 5

F

Facility siting 28, 35, 37, 38, 75, 104, 126, 160
linear facility 36
long-range plan 36
Falconry 64
Federal air quality permits 27
Federal Clean Water Act 141
Federal Insecticide, Fungicide and Rodenticide Act 20
Federal Land Policy and Management Act 18
Federal Power Act 29, 30, 128
Feedlots 14, 156
Ferries 47, 175
Fertilizer distribution 15, 16
Fertilizer registration 15, 151
Fertilizers 15, 16
Fire hazard reduction 42
Fish hatcheries 61
Fishing licenses 59, 60
Floodplain and Floodway Management Act 3
Floodplains and floodways 3
obstruction permit 4
404 Permit 30
Forest practices 44
Fur dealers 52, 154
Fur farms 51, 52, 154

G

Game animal licenses 59
Game bird farms 51, 52
Game bird licenses 59
Game farms 51, 52
Game preserves 62, 154
Geophysical exploration 90, 91, 93, 160, 162, 175
Geothermal leases 10, 11, 28, 163
Geothermal resources 28, 35
Grazing 2, 9, 14, 16-18, 163, 170, 177
grazing district 16
grazing leases 18, 163, 170, 177
grazing on state lands 17
grazing permit 16
grazing preferences 16
Guides 51, 53, 54, 153

H

Hazardous waste xiv, 103-106, 108, 109, 111, 112, 115, 116, 156
emergency permits 104
generators and transporters 105
Hazardous waste transfer facility 105
Heritage sites 5, 10
Highway advertising 47, 164
Highway approach permits 48
Highway encroachments 10, 49, 124
Highway utility easements 50, 124
Hunting licenses 60
Hydroelectric power development 10, 30
Hydropower 29, 30, 128, 129, 178

I

Ice fishing 61, 154
Importation of fish 62
Improvement and utility districts 125, 128
In-situ mining 70
Indoor emissions 32, 34, 177
Industrial revenue bonds 125
Interstate Land Sales Act 117

J

Junk vehicle 106
Lakeshore protection 6, 175
Lakeshores 6, 160
Landfills 41, 108
Landowner Notification Act 80
Lighting districts 125

M

Master plan 9, 23, 123
Meatpacking plants 39, 159
Megalandfills 108
Menagerie 56
Meteorology 144, 145
Mineral crushing 81
Mineral rights 9, 80

Mines and Mining
coal and uranium xiv, 65, 66, 69, 71, 72, 163
coal or uranium mine operating permit 67
exploration license for hardrock mining 72
large scale developments 78
milling/reprocessing 163
mine safety regulations 67, 76, 81
mine-site location permit 65, 66
mining for metalliferous minerals and gems 85
mining of nonmetallic minerals 87
opencut mining 81, 82, 158, 163
permit for prospecting for coal and uranium 72
placer and dredge mines 76
reclamation plan for a coal or uranium mine 68
use of explosives 61, 74
Montana Administrative Procedure Act 137
Montana Antiquities Act 5, 6
Montana Clean Air Act 24, 26, 78
Montana Dam Safety Act 128
Montana Environmental Policy Act xiv, 25, 104, 119, 140, 147
Montana Hazardous Waste and Underground Storage Tank Act 103, 105
Montana Major Facility Siting Act 35, 37, 38, 104
Montana Pesticides Act 18, 21
Montana Pollution Discharge Elimination System (MPDES) permit 139
Montana Strip and Underground Mine Reclamation Act 35
Montana Subdivision and Platting Act 121
Montana Water Quality Act 78, 130, 132, 138
Motor vehicle wrecking facilities 105, 156
Motorboats 97, 98
Municipal revenue bonds 125

N

National Pollutant Discharge Elimination System (NPDES) permit 141
National Register of Historic Places 6
Natural areas 8-10, 163
Natural Streambed and Land Preservation Act 12, 13
Navigable waters 11, 12, 29, 128
Netting fish 61
Nongame and Endangered Species Conservation Act 63
Nongame wildlife 63
Nuclear facilities 38
Nuclear materials 34

O

Occupational noise 32, 34, 177
Occupational Safety and Health Administration 32, 34, 177
Off-highway vehicles 100
Oil and Gas
    drilling permits 91
    oil and gas exploration 93
    oil and gas leases 94, 163, 175
    spacing of wells 92
Open burning 41, 42
Opencut Mining Act 81
Opencut sand and gravel operations 81
Organic Administration Act 18
Osprey 64
Outdoor advertising 47, 48
Outdoor Advertising Act 48
Outfitters 51, 53, 54, 153
Overhead lines 126, 175

P

Package labeling 61
Paleontological remains 5
Peregrine falcon 63, 64
Pesticides 15, 18, 19, 21
    aerial applicators 18
    commercial applicators 18
    experimental-use permit 20
    farm applicators 18, 19
    pesticide dealers 18
Petroleum Tank Release Cleanup Fund 113, 114
Pipelines 38, 126, 161
Planning xv, 7, 12, 23, 68, 90, 119, 121, 122, 147, 160
Planning board 7, 23, 121, 122
Poison baits
    1080 63
Ponds 2, 138
Portable sawmills 43, 162
Preferential right 17, 87, 96
Prevention of significant deterioration 26
Privies 111, 131, 155
Public comment 25, 26, 70, 148
Public Rangelands Improvement Act 18

Public sewer systems 125, 132

R

Radiation control 34
Radioactive waste disposal 107
Raptors 64
Refineries 35
Refuse Act permit 139
Removal of dead or inferior timber 44
Rivers and Harbors Act 11, 12
Roadside junkyards 50, 107, 156, 164
Roadside zoos 51, 56, 154, 157
Rural improvement districts 125

S

Sailboats 97
Sanitary and sewer districts 125
Seining 57, 61, 154
Seismic exploration 90, 93
Septic tanks 111, 131, 155
Sewer systems 125, 127, 132, 156
Shooting preserves 58, 154
Slaughterhouses 39, 159
SMES Cyanide Permit 76
Snare trapping 61, 154
Snowmobiles 100-102, 154
Soil amendments 15, 16
Special improvement districts 125
Spotlighting 61
State fire codes 111
State parks 102
State-owned land 5, 10, 92, 94
    exchange of land 10
    sales of land 11
Stream banks 2, 11, 14, 30, 75, 159
Stream beds 2, 11, 14, 30, 75, 159
Streamside management zones 44, 162
Strip and Underground Mine Reclamation Act 35, 65, 67, 71, 83, 103
Strip and Underground Mine Siting Act 65, 83

Subdivisions
evasion criteria 121
interstate land sales 117
major subdivisions 119, 122
minor subdivisions 119, 122
sale of subdivided land 117, 153

T

Taylor Grazing Act 18
Temporary crushers 24
310 Permit 2, 11, 12, 30
Timber cutting 42
Timber harvests 45
Timber sales 45, 162
Timber stand improvements 42
Trailer courts 98, 99, 155, 175
Transmission lines 37, 126
Trapping licenses 59

U

U.S. Environmental Protection Agency 91, 92, 112, 177
Underground Injection Control Program 91, 177
Underground storage tanks 111, 112, 114, 115, 156
Use of dogs for hunting 61
Use of fish as bait 61
Utilities 31, 38, 118, 124, 126, 127, 161
Utility easements 50, 124
Utility lines 126, 127

V

Ventilation Hotline 41

W

Water pollution discharge permits 38, 75, 91
Water quality standards 35, 138-140
Water Rights and Appropriations
beneficial uses 134, 137
ground water appropriation 133
highly appropriated basins 138
provisional permit 136

reservations 27, 134, 137, 141
State Water Court 136
unappropriated waters 136, 138
water right transfer certificate 134
watering livestock 134
Water supply systems
private water supply systems 129
Water well contractors 141, 142
Water well driller 134
Water wells 141, 161
Water/sewer districts 125
Weather modification 144-146, 161
Well log 134, 142
Wetlands 2, 11, 12, 14, 30, 75, 176
Wild bird permits 64, 154
Wildlife conservation license 55, 59
Work camps 98, 99

Z

Zoning 1, 2, 23, 81, 82, 106, 123, 175

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